# United States Court of Appeals for the Second Circuit



**APPENDIX** 

# 76-1004

# UNITED STATES COURT OF APPEALS

for the

# SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

-against-

LAWRENCE ALFANO,

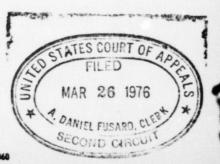
Defendant-Appellant.

ON APPEAL FROM A JUDGMENT OF CONVICTION OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

APPENDIX AND EXHIBITS

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(5344)

Q

COUNSEL PRESS. INC., 55 West -ct. Feet, New York, N.Y. 10036 . PE 6-8460

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Theorm No. 160

# CERTIFIED COPY OF DOCKET ENTRIES

75CK 298

JUDE, J.

CRIMINAL DOCKET TITLE OF CASE For U. S.: Cunningham THE UNITED STATES LAWRENCE ALFANO For Defendan STATES COURT OF DANIEL FUSARO. COND CIF Theft of goods in i.c.c CASH RECEIVED AND AMOUNT ABSTRACT OF COSTS 12-18-75 Notice of agree 00 000 Fine. 18-1575 Paid TO Trea Clerk. Marshal, Attorney, Commissioner's Court, Witnesses, PROCEEDINGS DATE Before NEAHER, J - Indictment filed. :-15-75 Before JUDD, J - case called - deft & counsel J. Rosner present -4-21-75 Deft arraigned and enters a plea of not guilty bail contd adjd to May 9, 1975 at 12 Noon for suppression haring. Govts Notice of Readiness for trial filed 4-21-75 4-29-75 Notice of Motion filed, ret. May 9, 1975 at 12 Noon, for Particulars, Discovery & Inspection etc. Before JUDD, J - case called - deft & counsel present - defts motion for discovery granted and denied as indicated on the record defts motion to dismiss argued - motion denied. 7-21-75 Supplemental Affidavit filed : suppression of evidence 10-6-75 Govts Notice of Readiness for Trial filed

CERTIFIED COPY OF DOCKET ENTRIES

| DATE  | PROCEEDINGS  |
|---|--|
| /15/75  | Before JUDD J Case called- Deft and counsel present-trial ordered and begun-jurors selected and sworn-trial contd to 10/16/75 at 10:00 A.M.    |
| 0/16/75   | Deft's questions for voir dire filed ·   |
|   | Before JUDD, J - case called - deft present with counsel Jonathan  |
|   | Rosner - trial resumed - Trial contd to Oct. 17, 1975 @ 2:00 PM.  Before JUDD, J - case called - deft & atty present Jonathan                  |
|   | Rosner, Esq trial resumed -trial contd to Oct. 20, 1975 @ 12 Noon.   |
|   | Bench Warrants ordered as to witnesses Maltese and Sampogne.   |
| Name and Address of the Owner, where the Personal Property lies | Bench warrants issued (above witnesses)  |
| 10-20-  | 75 Before JUDD, J - case called - deft Alfanc & counsel Jonathan   |
|   | Rosner present - trial resumed - Bovt rests - defts motion to dismiss  |
|   | argued and motion denied - trial contd to Oct. 21, 1975.   |
| 10-21-7   | 5 Before JUDD, J - case called - deft & atty J.Rosner present -  |
|   | trial resumed - deft rests - Govt rests - defts motion to dismiss  |
|   | argued - motion denied - trial contd to Oct. 22, 1975.   |
| 0-22-75   |  |
| 0-22-75   | Before JUDP, J - case called - deft & atty & Rosner present - trial re   |
|   | resumed - deft sums up - Govt sums up - Judge charges Jury - marshals  |
|   | sworn - alternates discharged - Order of sustenance signed - jury  |
|   | retires to deliberate at 11:45 am - Jury returns at 2:45 PM and renders  |
|   | verdict of guilty as charged - Jury polled - Jury discharged - trial   |
|   | concluded - Govts motion for increase in bail - motion argued -motion  |
|   | granted - Bail set at \$20,000 surety bond - adjd without date for   |
|   | sentencing.  |
| 10-22-  | 5 By JUDD, J - Order of sustenance filed.  |
|   | 5 Stenographers transcript dated Oct. 21, 1975 filed.  |
| /30/75  | Before JUDD, J Case called- Wifnesses Steven Maltese and Robert Sampogr  |
|   | produced in court on bench warrant-bail set at \$2500 as to each deft, cas   |
|   | adjd to 11/18/75 at 2:00 P.M. for hearing as to why witnesses refused to   |
|   | to testify as govt witnesses in trial of case  |
| 0/30/75   | Warrants for arrest of witnesses(2) retd and filed- executed   |
| 0/30/75   | Notice of appearance filed (witness Maltese) (Zerin, Cooper and Horlick  |
|   | 26 Court Street 855-9252)  |
| /30/75  | Notice of appearance file(witness Sampogne)( lerbert Kaplan esq.)  |
| 12-5-75   |  |
|   | deft renews previous motions to set aside jury verdict - motion denie,   |
|   | deft sentenced to imprisonment for 2 years to run concurrent on cts. 1 deft fined \$1,000 on count 1 - execution of sentence is stayed pending |
|   |  |

# CERTIFIED COPY OF DOCKET ENTRIES

75 CR-298

| -   |   |     | DOCKET |
|-----|---|-----|--------|
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|     |   |     |        |

| DATE    | PROCEEDINGS  |
|---------|--|
|         | Deft advised of right to appeal.   |
| 2-5-75  | Judgment & Commitment filed - certified copies to Marshal  |
| 12/75   | Notice of appeal filed   |
| 2/12/75 | Docket entries and duplicate of notice of appeal mailed to court of app  |
| /26/75  | Record on appeal certified and mailed to court of appeals  |
| /75     | Order received from court of appeals and filed that record be dockted or   |
|         | or before 1/2/76 filed   |
| 31/75   | Designation of exhibits necessary for an appeal filed  |
| 2/76    | Acknowledgment received from court of appeals for receipt of record  |
| 2-3-76  | By Judd, J - Order to show cause filed, with proof of service  (ret. 2-17-76 at 9:30 am, ) why an order should not be made  adjudging Michael Argondizzo in contempt etc)  |
| 9/76    | Stenographers Transcripts dated 2/21/75, October 15,16,20,21,22 and 12/5/75 filed  |
| 2-11    |  |
| 2-17-7  | 76 R Stenographers transcript dated Oct. 17, 1975 filed.   |
| /17/76  | The state of the s |
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### SUPERSEDING INDICTMENT

RJD: MCC: gc F. #751,497

APR 15 1975

THE AM..... P.H. .....

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

75CR 298

UNITED STATES OF AMERICA

SUPERSEDING INDICTMENT

- against -LAWRENCE ALFANO.

Defendant.

Cr. No. (T. 18 U.S.C. §659)

THE GRAND JURY CHARGES:

### COUNT ONE

On or about and between April 25, 1973 and June 25, 1973, within the Eastern District of New York, the defendant, LAWRENCE ALFANO, did wilfully and unlawfully receive and have in his possession approximately two Air Transport Association airline tickets numbered 8213 865-043 and 8213 865-044 having a value in excess of One Hundred Dollars (\$100), which goods had been stolen from Wings and Wheels Express Inc. while moving as a part of and constituting an interstate shipment of freight from Nashville, Tennessee to Newark, New Jersey, the defendant, LAWRENCE ALFANG knowing the same to have been stolen. (Title 18, United States Code, §659).

### COUNT TWO

On or about and between May 23, 1973 and July 23, 1973, within the Eastern District of New York, the defendant, LAWRENCE ALFANO, did wilfully and unlawfully receive and have in his possessic approximately three Air Transport Association airline tickets ...mbered 8214 939-194, 8214-939-195 and 8214-939-196 having a value in excess of One Hundred Dollars (\$100), which goods had been stolen from Wings and Wheels Express Inc. while moving as a part of and constituting an interstate shipment of freight from Nashville, Tennessee

# SUPERSEDING INDICTMENT

to Newark, New Jersey, the defendant, LAWRENCE ALFANO, knowing the same to have been stolen. (Title 18, United States Code, §659).

A TRUE BILL.

FOREMAN '

UNITED STATES ATTORNEY

| UNITED STATES DISTRICT COURT<br>EASTERN DISTRICT OF NEW YORK             | u. s. DISTRICT COURT ED. N.Y X  JUL 21 1975 |
|--|---|
| UNITED STATES OF AMERICA   | : TIME AN                                   |
| -against-  | Docket No. 75 CR. 298<br>(O.G.J.)           |
| LAWRENCE ALFANO,   | : SUPPLEMENTAL AFFIDAVIT:                   |
| Defendant.   | SUPPRESSION OF EVIDENCE                     |
|  | <del>.</del>                                |
| STATE OF NEW YORK ) COUNTY OF NEW YORK ) SOUTHERN DISTRICT OF NEW YORK ) | ss.:  |

JONATHAN L. ROSNER, being duly sworn, deposes and says:

- 1. I am an attorney duly admitted to practice in this Court and am the attorney of record for the Defendant Lawrence Alfano. I respectfully submit this affidavit in further support of a motion, pursuant to Rule 41, F.R.Crim. P., to suppress for use as evidence, materials and evidence obtained by the Government as a consequence of illegal and surreptitious searches and seizures.
- 2. <u>Indictment</u>. The original indictment herein, 74 Cr. 818, was filed on or about December 26, 1974, and charged the Defendant Alfano in two (2) counts with the illegal receipt and possession of five (5) airline tickets which were stolen from a shipment moving in interstate commerce. 18 U.S.C. \$659.

While there was pending before the Court an omnibus motion brought on behalf of the Defendant seeking dismissal of the indictment, further particulars, discovery, suppression of evidence and exculpatory materials, a superceding indictment was returned. That indictment, 75 Cr.

298, filed on or about April 15, 1975, similarly contains two (2) counts, each alleging a violation of 18 U.S.C. 5659, involving the receipt and possession of five (5) airline tickets allegedly stolen from a shipment moving in interstate commerce.

3. <u>Disposition of Motions</u>, etc. The Government filed no responsive papers to the Notice of Motion returnable February 21, 1975, seeking dismissal of the Indictment, further particulars, discovery and inspection, and exculpatory materials, nor did the Government submit any papers in response to the Notice of Motion returnable May 9, 1975, seeking further particulars and discovery and inspection.

In the interim, the Government did furnish what purports to be a Bill of Particulars under letter dated April 22, 1975, and as well furnished copies of the five (5) airline tickets which are the subject of the two (2) counts of the Indictment, as well as copies of the documentation allegedly establishing the interstate character of the shipments from which the releast were allegedly stolen. In addition, the Government furnished to the Defendant a copy of his testimony before the Grand Jury that returned the indictment and a copy of an eight (8) page transcript of an eavesdropped conversation overheard and apparently recorded on August 7, 1973, at Telephone No. 497-9408 where the participants to the conversation were "Larry", "June" and "Vinnie".

Additionally, the Government furnished what purports to be copies of all relevant Eavesdrop Orders or
Warrants and applications in connection therewith, which
indicate the existence of twelve (12) such Warrants or
Orders, including three (3) in Suffolk County and nine

### (9) in Kings County, as follows:

 Order of Supreme Court, Suffolk County dated 9/22/72 for LT 9-1547

> Affidavit of George Aspland, Esq., sworn to 9/21/72 Affidavit of Peter Loughlin, sworn to 9/21/72

 Order of Supreme Court, Suffolk County dated 11/4/72 for 421-3422

Affidavit of George Aspland, Esq., sworn to 10/3/72

Affidavit of Peter Loughlin, sworn to 10/2/72

 Order of Supreme Court, Suffolk County dated 10/20/72 for 251-0988

Affidavit of George Aspland, Esq., sworn to 10/ /72

Affidavit of Peter Loughlin, sworn to 10/19/72

 Order of Supreme Court, Kings County dated 1/26/73 for 638-9048

Affidavit of Eugene Gold, q., sworn to 1/25/73

Affidavit of Thomas Fitzgerald, sworn to 1/25/73

 Order of Supreme Court, Kings County dated 2/23/73 for 638-9048

Affidavit of Eugene Gold, Esq., sworn to 2/23/73

Affidavit of Thomas Fitzgerald, sworn to 2/23/73

 Order of Supreme Court, Kings County dated 2/ /73 (Unsigned) for 779-1589

Affidavit of Eugene Gold, Esq., sworn to 3/13/73

'Affidavit of Thomas Fitzgerald, sworn to 3/13/73

 Order of Appellate Division, Second Department, Supreme Court, dated 4/11/73 for 779-1850

 Order of the Appellate Division, Second Department, Supreme Court, dated 5/ /73 (Unsigned) for 779-1580

Affidavit of Eugene Gold, Esq., sworn to 5/10/73

Affidavit of Thomas Fitzgerald, sworn to 5/10/73

9. Order of Supreme Court, Kings County dated 5/22/73 for 497-9617

Affidavit of Eugene Gold, Esq., sworn to 5/22/73

Affidavit of William F. Carney sworn to 5/22/73

 Order of Appellate Division, Second Department, Supreme Court, dated 6/14/73 for 382-9888 and 382/9889

Affidavit of Eugene Gold, Esq., sworn to 6/14/73

Affidavit of William F. Carney, sworn to 6/13/73

 Order of Appellate Division, Second Department, Supreme Court, dated 7/ /73 (Unsigned) for 382-9888 and 283-9889

Affidavit of Eugene Gold, Esq., sworn to 7/ /73 (Unsigned)

Affidavit of William F. Carney, sworn to 7/6/73

- Order of Appellate Division, Second Department, Supreme Court, dated 9/13/73
- 4. Motion to Suppress, etc. On May 9, 1975, together with counsel for the Government and counsel for other defendants whose indictments arose out of the chain of eavesdropping warrants and orders outlined above, I appeared before the Court for a "hearing" on the several motions to suppress. Much of the material affording counsel the information with respect to the eavesdropped conversations was not furnished by the Government until the commencement of the "hearing". During the colloquy in

respect of the motions to suppress, the Court indicated that the Defendant Alfano lacked the requisite standing in respect of any and all conversations, warrants, orders, and applications prior to those numbered "10.", "11." and "12." above, since only those warrants, orders and the applications incidental to them revealed conversations to which the Defendant Alfano was a participant, and only the one numbered "11." had to do with the single conversation of the Defendant Alfano that the Government intended to offer into evidence. Moreover, the Court further indicated that as the orders, warrants and applications appeared sufficient on their face, and since another member of this Court had presumably found the eavesdropping lawful in related matters, absent a demonstration on the part of the Defendant Alfano and other defendants similarly situated, the Court would not conduct an evidentiary hearing.

It is, of course, too late in the day to conclude, as the Court did, that the Defendant Alfano has no standing to challenge the earlier eavesdrop procedures which were the derivation for the procedures bottoming the challenged conversations offered against him. See, e.g., Nardone v. United States, 308 U.S. 338; Silverman v. United States, 365 U.S. 505. See also, American Bar Association Standards Relating to Electronic Surveillance \$2.3 at page 115; United States v. Giordano, 94 S.Ct. 1820.

Moreover, the materials furnished by the Govern-

<sup>\*</sup> The Court denied Defendant's motion to dismiss and also denied Defendant's motion for further particulars, although the particulars furnished merely parrot the allegations of the indictment. As noted at the time, such rejection of a good-faith request for further particulars may well cause an interruption in the middle of trial due to surprise and prejudice.

ment fairly indicate extended gaps in the surviellance and as well indicate applications and order which do not on their face appear to have been signed. In addition, it is respectfully submitted that certain of the applications afford a neutral and detached magistrate no basis on which to issue the orders or warrant requested since the predicate for reliability of the information on which the application is based is set forth in only the most conclusory fashion. In addition, certain of the orders in the chain, viz., numbere "3.", fairly indicate an indiscriminate eavesdropping without the sufficient foundation required constitutionally. Even beyond that, many of the applications appear facially to be mere repetitions of prior applications, and neither the applications nor the orders give any indication that appropriate protective procedures, such as minimization, were adopted. Finally, the extensive nature of the continuing search and seizure, conducted over a period of in excess of One (1) year raise serious questions as to the constitutionality of the conduct.

At the conclusion of the "hearing" on May 9, 1975, the Court indicated it would hear counsel further in respect of particularization of claims arising out of the warrants, orders and applications, on May 15, 1975, at 2:30 P.M. As I indicated at that time, I am scheduled to commence a trial in Supreme Court of the State of New York, County of New York, before Honorable Samuel R. Rosenberg, Justice, in Individual Calendar Part VI on Tuesday, May 13, 1975. I have just communicated with Mr. Justice Rosenberg's Chambers and was advised that the trial is in fact to commence on Tuesday, May

13, 1975, and will thus be mable to attend the Court on May 15, 1975 at 2:30 P.M.

In light of the foregoing, and the rulings of the Court in respect of the motion to suppress on behalf of the Defendant Alfano, I will respect the rulings of the Court both as to suppression, particulars and discovery, letting the record stand as it presently does, and indicate to the Court that I am not in a position to prepare further for trial. Thus, the Court may indicate as it desires a date for trial consistent with my other trial commitments.

JONATHAN L. ROSNER

Sworn to before me this 12th day of May, 1975.

ANN E. FERREZ Notary Public, State of New York No. 31-6278190

Qualified in New York County Commission Expires March 30, 1976

# .1

# Georgeades-direct

MR. CUNNINGHAM: Thank you, your Honor.

3

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SOCRATES GEORGEADES, called as a witness, having been duly sworn by the Clerk of the Court, testified as follows:

6

# DIRECT EXAMINATION

8

# BY MR. CUNNINGHAM:

9

Q By whom are you employed, sir?

10

A Rand McNally & Company.

11

Were you so employed by them in 1973?

12

A Yes, I was.

13

Q How long have you been employed by Rand

14

McNally?

15

A Twenty-seven years.

16

Q What's your function?

17

A Assistant sales manager in the ticket sales

18

division of Rand McNally.

19

20

Q When you say you're in the ticket sales division of Rand McNally, what actually does that division

21

do?

22

A We print tickets for about eighty-five percent of the airlines, the railroads, the buses, credit coupon

24

23

books for banks, et cetera.

25

Q Do you also print tickets for the Air Transport

# A-14 1 Georgeades-direct 2 Association? 3 Yes, we do. THE CLERK: Two documents marked Government's Exhibits 1 and 2 for identification. 5 6 (So marked) I show you Government's Exhibits 1 and 2. 7 Q Can you identify those tickets (handing to witness)? 8 Yes, these are A.T.A. tickets, which we print 9 for the Air Traffic Association. 10 Those are the tickets in the name of Mr. 11 12 Alfano. MR. ROSNER: Objection, your Honor. 13 THE COURT: They haven't been offered in 14 evidence yet. I don't think he can read them. 15 Sir, can you tell where those tickets were 16 17 manufactured? These tickets were manufactured in our 18 Nashville, Tennessee plant. 19 MR. CUNNINGHAM: Could we have a side bar 20 21 for a moment. (Side bar) 22

MR. CUNNINGHAM: If your Honor will recall in the case of U.S. v. Gallo, we put through a series of documents which are the same documents

23

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# Georgeades-direct

which I purport to put into evidence here. These documents here have all been marked into evidence in the Gallo trial. The Gallo trial is still not finalized. It's on appeal right now. Maybe the Court would want to mark these.

THE COURT: Can we use the same numbers? Sometimes we premark.

MR. ROSNER: I have no objection to the same numbers. Obviously, the jury might get the impression that it was another proceeding.

THE COURT: I'll let it go out of order.

MR. CUNNINGHAM: The numbe: --

THE COURT: As they are.

MR. CUNNINGHAM: They have different CR numbers on the labels.

THE COURT: The jury can see the number when they go downstairs on the calendar wall.

MR. ROSNER: We can make copies, put the scan over what that will be read as.

THE COURT: The colors won't show on the copies. I don't know whether the colors are significant.

MR. CUNNINGHAM: I don't think so.

MR. ROSNER: Does it make a difference if

-

the colors show or not?

MR. CUNNINGHAM: It might save time right

now if we can have an offer of proof. Maybe we can

mark these things in advance not in the presence of

the jury.

THE COURT: I thought we would like to get one witness on this afternoon.

MR. CUNNINGHAM: We might be able to do both, if we have a stipulation as to these documents.

THE COURT: Have you seen them before?

MR. ROSNER: I have copies, your Honor.

I read them and quite candidly they make no sense to me. They're a jumble of numbers. I tried to cross-reference them. I couldn't do it.

MR. CUNNINGHAM: Can the jury be dismissed for five minutes. We'll have Mr. Georgeades go through it. If it satisfies Mr. Rosner.

THE COURT: All right.

MR. ROSNER: Might I make a suggestion: Let Mr. Cunningham have them identified by the previous numbers. If the jury wants to use them in their deliberations, that's the only time they'll see them, then we can use copies.

THE COURT: All right, suppose we do that.

# (In open court)

THE COURT: I hope the jury 'on't be confused if we use exhibits that have numbers that won't come in order. We'll save time if we let Mr. Cunnin ham proceed with these as he presents them.

Q Sir, can you tell me what Government's Exhibit

This is a call-out order by A.T.C. for tickets.

This is what we call a release order. They send us this order telling us to ship a certain amount of tickets to this particular travel agent, which is Greenwald.

Q Once you get that exhibit there in front of you, what steps does the Rand McNally Company take?

A We print and store the A.T.C. tickets in our plant and hold them until we receive a release order, such as this. Upon receipt of this order, we immediately assign the lumbers which are listed here and ship these tickets out directly to the travel agent.

Q Sir, from that document you have in front of you, can you tell whether or not the Government Exhibits 1 and 2 are two airline tickets which were part of that shipment to Greenwald Travel?

A Yes, both were in the shipment.

| 1  | Georgeades-direct  |
|----|--|
| 2  | Q Can you tell us what the next document you               |
| 3  | have in front of you is, sir?                              |
| 4  | Please refer to it by the number that's on                 |
| 5  | there.   |
| 6  | A I believe this is Document 12, Exhibit 12.               |
| 7  | Q Yes.   |
| 8  | A Exhibit 12 is an airway bill or bill of                  |
| 9  | lading issued to Wings & Wheels for this particular ship-  |
| 10 | ment.  |
| 11 | Q Can you tell us in your own words what that              |
| 12 | means?   |
| 13 | A Well, once we get the shipment ready, we                 |
| 14 | call Wings & Wheels, who picks up this shipment from us.   |
| 15 | This particular shipment was one piece, weighed three      |
| 16 | pounds, and it was, I believe, date of pickup was 4/24.    |
| 17 | Q That would be April 24th?                                |
| 18 | A Yes.   |
| 19 | Q What year?   |
| 20 | A '73.   |
| 21 | Q Can you tell us what the next document is?               |
| 22 | A The next exhibit is Exhibit 20. It's an                  |
| 23 | Air Express International Corporation Wings & Wheels. This |
| 24 | is an airway bill from Wings & Wheels to Air Express       |

International Corporation. They are the carriers, I guess,

of these tickets. This was four cartons, of which this particular carton was part of it, total weight was 85 pounds, for shipment to Wings & Wheels in Newark, New Jersey.

Q Can you tell us what Wings & Wheels is?
You used that term.

Rand McNally uses, which is -- let me phrase it this way, if
I may: A.T.A.tells us how to ship this. They tell us who
to use. In this case it happens to be Wings & Wheels.
They are responsible for the shipment from the Rand McNally
plant direct to the travel agent.

Q What is the next document in front of you, sir?

A This is Government Exhibit No. 21. This is, again, happens to be a uniform air bill, consignee is Wings & Wheels, Newark, New Jersey. I believe this is proof that the shipment was received by Wing. & Wheels in Newark, New Jersey.

Q What is the next document?

A Exhibit 22 is a description, they call it an over-short-damage report, which is made out by Wings & Wheels and it's a carton stolen from Wings & Wheels-
MR. ROSNER: Objection, your Honor, move to

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THE COURT: "Stolen" is a conclusion,

I suppose.

THE WITNESS: Missing.

THE COURT: Carton missing. It says stolen.

A Carton missing from Wings & Wheels, Newark,

MR. ROSNER: This document is not in evidence.

THE COURT: This is a regular business

report of yours, isn't it?

THE WITNESS: Yes.

onnection.

THE COURT: I'm going to receive it.

MR. ROSNER: There's no foundation for it.

MR. CUNNINGHAM: Received subject to

MR. ROSNER: I don't think there's a foundation, subject to connection or otherwise.

THE COURT: I'll receive it subject to connection.

You were saying about that document?

A It's a document made out by Wings & Wheels for a missing carton--

MR. ROSNER: Might I be heard?

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THE COURT: Come over.

(Side bar.)

MR. ROSNER: According to his testimony the document is made out by Wings & Wheels. He works for Rand McNally. There couldn't be a foundation under the business records rule. He's not a custodian, has no knowledge of it.

THE COURT: I'm certain Wings & Wheels is available.

MR. CUNNINGHAM: In the courtroom.

THE COURT: Received subject to connection.

(In open court)

Q Would you please continue. Tell us what that document is in front of you.

A It's a document reporting a missing package from the Newark dock, morning of April 26, 1973. Action taken: Notified all the truckers -- I can't read this.

Anyway, it's signed by a fellow named G. Sanoff.

THE COURT: Go on to the next one.

THE WITNESS: That's it.

Q Taking those documents in their entirety, can you explain to the jury what they represent in your own words.

MR. ROSNER: Objection.

MR. CUNNINGHAM: At this time I ask it be received subject to connection.

THE COURT: I'll receive it subject to connection.

MR. ROSNER: Will the Court note my objection.
THE COURT: Yes.

You can explain them.

THE WITNESS: This is documentary proof that the shipment left our plant at Nashville, Tennessee, was picked up by Wings & Wheels, shipped by Wings & Wheels to their Newark dock, received at the Newark dock and later-- but never arrived at the travel agent, apparently the tickets were missing, if I can use that word, after they were received in Newark by Wings & Wheels.

THE CLERK: Tickets marked Government's Exhibits 3, 4 and 5 for identification.

# (So marked)

Q I'm going to show you Government Exhibits

3, 4, and 5 for identification and ask you if you can
identify these tickets (handing to witness).

A They're coupons taken from a cicket from an A.T.A. ticket and these are actual parts taken out of a ticket. They're real.

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Exhibit No. 7 is our order or freight billed to Wings & Wheels to ship this particular shipment to Bayonne Travel Agency.

What is the next document?

Exhibit 8 is Wings & Wheels airway bill for shipment. In other words, Air Express International Corporation. It's the same shipment.

Exhibit No. 9 is the consignee uniform airway bill, Wings & Wheels, for shipment to Newark, New Jersey. Shipment was received in Newark, New Jersey by Wings & Wheels'.

Finally, Exhibit No. 10 is a form made out by Wings & Wheels saying that this particular package was missing.

> And you're looking at those five exhibits--MR. CUNNINGHAM: Withdrawn.

At this time I ask Government Exhibits 5 through 10 be received.

THE COURT: Any objection?

MR. ROSNER: Yes.

MR. CUNNINGHAM: 6, 7, 8, 9 and 10 be received subject to connection.

MR. ROSNER: I don't think there's a proper foundation.

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THE COURT: Some of them require further foundation, but I'll receive them with further connection.

- Q Can you tell us what those five documents are?
- authentication the shipment left our plant in Nashville, was picked up by Wings & Wheels. Wings & Wheels was responsible for shipping it to their doc's as they call it, in Newark, New Jersey. Both shipments were received at their dock, but the shipments never arrived at the final destination, which was the travel agency.
- Q The five air'ine tickets, Government's

  Exhibits 1 through 5, all those tickets were manufactured

  by Rand McNally?

A Yes.

MR. CUNNINGHAM: No further questions.

THE COURT: You may cross examine,

Mr. Rosner.

CROSS EXAMINATION

BY MR. ROSNER:

Sir, I ask you to look at Government Exhibits

1, 2, 3, 4, and 5. Can you tell the Court and jury what

appeared on those documents when they left Rand McNally?

| 1  |               | Georgeades-cross                              |
|----|---------------|---|
| 2  | A             | Blank tickets. None of the handwriting        |
| 3  | appeared and/ | or the agency stamping or the airline name.   |
| 4  | Q             | In other words, it was a blank form?          |
| 5  | A             | Blank, numbered and printed only, but no      |
| 6  | filling in of | the station names as it appears here.         |
| 7  | Q             | So that, for example, on Exhibits 3, 4 and    |
| 8  | 5, the name G | rimes Travel Agency, New York, New York, did  |
| 9  | not appear?   |   |
| 0  | A             | Right.  |
| 1  | Q             | Nor did National Airlines?                    |
| 12 | A             | No, sir.                                      |
| 13 | Q             | On 1 and 2 the name Central Tours, Inc., and  |
| 14 | Eastern Airli | ines did not appear?                          |
| 15 | A             | No, sir.                                      |
| 16 | Q ·           | You're familiar with the printing and         |
| 17 | issuance of   | airline tickets, I gather.                    |
| 18 | A             | Yes, sir.                                     |
| 19 | Q             | Can you tell the Court and jury what printing |
| 20 | National Air  | lines 010 3 means at the bottom of Exhibit 3  |
| 21 | through 5?    |   |
| 22 | A             | National Airlines is the carrier in this      |
| 11 |               |   |

A National Airlines is the carrier in this particular case. 010, their airline code. I can't really say what the "3" is.

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When you say the airline code, what do you

# Georgeades-cross

mean?

A Every airline has a three-digit code number.

Eastern would be 007. National is 010.

Q Exhibits 1 and 2 appear to have two documents.

Can you tell us what those two documents in each one indicate?

A Yes, this is the first ride coupon, which takes the person from New York to Fort Lauderdale. The second is the second ride coupon, which brings the person back from Fort Lauderdale to New York. Both out of the same ticket, same number.

Q The same thing is true of Exhibit 1?

A Yes, sir. New York to Fort Lauderdale, Fort Lauderdale back to New York, yes.

Q I assume in your occupation you have seen literally hundreds, perhaps thousands, of airline tickets.

A Yes.

O Both in blank and as issued?

A Well, mostly in blank. I would say more blank than issued.

Q You've seen a great many issued?

A I have.

Q If somebody gave you any one of these, any one of these five exhibits, 1, 2, 3, 4, 5, is there any

\*

# Georgeades-cross

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way with your background and experience that you could determine whether those tickets were stolen or not?

A Were stolen?

Q Yes.

A You mean-- Well, I couldn't say if they
were stolen. I would say who did the imprinting up there
and a fine job. It would be hard to detect.

Q What I'm asking you, assuming that Government
Exhibit 5 with all of its counterparts -- I don't know

if that's the technical name for it or not--

A That's right.

o --in the folder that I assume they're printed in, with the handwriting and the stamping that appears on here, were sold to you, could you determine from looking at it that it was in fact stolen?

A Yes, there is one point that would make massuspicious.

Q How is that, sir?

A Usually when you buy an airline ticket they fill in the fare, the tax, and then total it up. This is shown as a lump sum, which is not the way it's done at the counters, but I happen to know that. I don't think an ordinary layman would know.

MR. ROSNER: No further questions.

# A-29. Georgeades-cross 1 2 THE COURT: Any redirect? 3 MR. CUNNINGHAM: No. (Witness excused) MR. CUNNINGHAM: The Government calls as 5 6 its next witness Mr. Zackaroff. 7 ZACKAROFF, called as a witness, 8 GEORGE having been duly sworn by the Clerk of the Court, 9 10 testified as follows: 11 THE CLERK: Full name. 12 THE WITNESS: George Zackaroff, 13 Z-a-c-k-a-r-o-f-f. 14 DIRECT EXAMINATION 15 BY MR. CUNNINGHAM: Mr. Zackaroff, by whom are you employed? 16 Q Wings & Wheels Air Express International. 17 A How long have you been so employed? 18 Ten years, approximately. 19 Have you been so employed by Wings & Wheels 20 Q

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in 1973?

A Excuse me?

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Were you employed by Wings & Wheels in 1973?

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Yes.

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What is your position with Wings & Wheels?

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### Zackaroff-direct

- A At that time I was a day supervisor.
- Q What is Wings & Wheels?
- A We're an air freight forwarder, giving service to the public.
- Q Sir, as an air freight forwarder, is one of your accounts the Rand McNally Corporation?
  - A That's correct.
- What functions do you perform for Rand McNally?
- A We move various shipments from them, from their office in Nashville to various points throughout the country.
- I'm going to show you Government Exhibits
  11, 12, 20, 21, 22, and ask you if you can identify those
  documents, sir.
  - A The first--
- Q Take them as a group. Are you familiar with those documents?
  - A All except one.
- Q Which is the one document you're not familiar with?
- A The bill of lading from the Air Traffic
  Conference of America.
  - Q What exhibit number is that, sir?

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#### Zackaroff-direct

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Government Exhibit 11. A

If you'll put that off to the side for a mome.t.

(Witness complies.)

Take a lock at the other documents in front of you. In your own words, sir, can you tell us what those documents purport to be.

They represent documented proof that we had picked up a piece of freight that reighed three pounds from Rand McNally and moved it through as being an air shipment.

- You picked it up in Nashville?
- Yes. A
- Where were you to deliver it?
- By this document it would be in Greenwald A Travel Service, Clifton, New Jersey.
- Can you tell whether it ever got to Greenwald Travel?
  - I have from my company an O.S.& D. form. A
    - What is it? Q

This states that on June 5th it was reported to the Newark Police Department that one piece of three pounds that was going to the Greenwald Travel Service in Clifton was missing from the warehouse or from the dock at

#### Zackaroff-direct

I'm now going to show you Government's

Exhibits 6 through 10 (handing) and I ask you if you look

at Document No. 6, that's the document from the Air

Transport Association; is that correct?

A "hat's correct.

Newark, New Jersey.

- Q That's a document you're not familiar with?
- A I'm not familiar with that one.
- Looking at documents 7 through 10, sir, can you tell us in your own words what they purport to be.

Rand McNally going to Bayonne Travel, Bayonne, New Jersey, and is documented proof the shipment was actually shipped by Rand McNally received in our possession, given to an airline and reached the destination at Newark.

Q Reached the destination in Newark? Can you tell in that documentation if it actually got to its final destination, Bayonne Travel Service?

A Again, there was an O.S.& D. filed on June 7th, pertaining to this shipment.

Q What is that document you're talking about?

A It states that . This one states it was actually given to the trucker, but the trucker had called us by phone saying he could not find the piece to deliver

| 1  | Zackaroff-direct  |   |
|----|---|---|
| 2  | it on his truck.  |   |
| 3  | Q The shipment never arrive?                              |   |
| 4  | A Never arrived at this particular travel                 |   |
| 5  | agency.   |   |
| 6  | MR. CUNNINGHAM: No further questions.                     |   |
| 7  | THE COURT: You may cross-examine.                         |   |
| 8  | CROSS EXAMINATION   |   |
| 9  | BY MR. ROSNER:  |   |
| 10 | Q Mr. Zackaroff, can you tell by looking at               |   |
| 11 | Exhibits 22, 12, 20, 21 and 11 when the shipment contain- |   |
| 12 | ing Exhibits 1 and 2 left Nashville?                      |   |
| 13 | A No, I couldn't do that.                                 |   |
| 14 | Q Can you tell when they arrived in New Jerse             | Y |
| 15 | A No.   |   |
| 16 | Q Can you tell when they were first reported              |   |
| 17 | missing?  |   |
| 18 | A No.   |   |
| 19 | Q Can you tell the value of the tickets that              |   |
| 20 | were reported missing?                                    |   |
| 21 | A No.   |   |
| 22 | Q Can you tell how many tickets were reported             | 1 |
| 23 | missing?  |   |
| 24 | A No.   |   |

Q No way?

#### Zackaroff-cross

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A No way. All I know--

Q Directing your attention to Government

Exhibit 22 and to the handwriting that appears at the far

right-hand of the fourth line, what does that say?

A It's a space marked "Declared Value," which is marked N.V.D., which means no value declared.

Q Does this indicate incidentally, also referring to Exhibit 22, something with respect to the hours of 8:30 and 1300 on April 26, 1973?

A Yes.

Q Would that indicate when it was missing or when it was first reported missing?

A That's when it was first known to be missing.

O But you don't know when before that--

A Well, as stated, between 8:30 in the morning and 1:00 c'clock in the afternoon.

Q That's when it was first known to be missing, but you have no idea how long before that it actually was missing?

A It had to be at 8:30 in the morning, between those hours, because the freight was actually brought in at approximately 8:30 in the morning. It was there.

Q Didn't you just testify there was no way you could tell when the shipment left Nashville or when it

#### Zackaroff-cross

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arrived in New Jersey?

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A As per particular ticket, as to this particular 32-pound piece, I can't. As it being one single ticket, I couldn't do that becasuse I'm not familiar with what Rand McNally puts into its cartons.

Q In other words, you can't say whether 1 and 2 were in this shipment that was reported missing between 8:30 in the morning and 1300 on April --

A No, that I couldn't do.

Q O.K. With respect to Government's Exhibits

10, 9, 8, 7, 6 -- seem to be going backwards -- can you

tell when that shipment left Nashville?

A The one left on 5/23/73.

Q Can you tell when it arrived in New Jersey?

A By this document, no, I cannot.

Q Can you tell when the shipment was first reported missing?

A That was on June 7th.

o of 1973?

A 1973.

Q Was this shipped by air or land?

A By air.

Q You mean it left Nashville on May 23 and arrived in Newark on June 7th by air?

#### A-37

THE COURT: Make sure that he does know he's expected.

MR. CUNNINGHAM: Right.

THE COURT: His wife might have thought he's totally ill. Let's get on with what we can now.

I find I have a suppression motion at 11:00 o'clock tomorrow, which I hope I can finish in the morning, so we'll probably start at two on this case on Friday.

(The jury enters the jury box.)

THE COURT: Good morning, ladies and gentlemen.

Mr. Cunningham, are you ready to proceed?

MR. CUNNINGHAM: The Government calls as

its next witness Mr. Frank Scinta.

FRANK SCINTA, called as a witness, having

Leen duly sworn by the Clerk of the Court, testified

as follows:

THE CLERK: Full name.

THE WITNESS: Frank Scinta, S-c-i-n-t-a.

#### DIRECT EXAMINATION

#### BY MR. CUNNINGHAM:

Q Mr. Scinta, by whom are you em loyed, sir?

A Air Transport Association of America.

| 1  | Sinta-direct  |
|----|---|
| 2  | Q Will you tell us what the Air Transport               |
| 3  | Association is.   |
| •  | A It's the association of all the domestic              |
| 5  | airlines.   |
| 6  | Q What actually do you mean by that?                    |
| 7  | A The various airlines are members of the Air           |
| 8  | Transport Association, which is funded by the airlines. |
| 9  | Q It acts as a trade association?                       |
| 0  | A Trade association.                                    |
| 1  | Q Does it have any other functions other than           |
| 2  | the trade association? Does it regulate the industry    |
| 3  | in any way?   |
| 4  | A No, but it's governed by the C.A.B.                   |
| 5  | o The C.A.B. is   |
| 6  | A The Government agency which overlooks.                |
| 17 | Q Civil Aeronautics Board?                              |
| 18 | A That's right.   |
| 19 | Q What are your duties in the Air Transport             |
| 20 | Association?  |
| 21 | Investigation of stolen airline tickets,                |
| 22 | fraud investigations, investigation of travel agents.   |
| 23 | Q Sir, is one of the functions of the A.T.C.            |

or Air Transport Association to provide airline tickets 25 to different agencies?

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#### Scinta-direct

|       | A    |       | This is  | correct  | . The   | Air Trai | ffic Co | nference |
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| which | is   | a div | si.on of | E A.T.A. | has th  | e respon | nsibili | ty of    |
| appoi | ntin | g the | travel   | agent a  | nd also | providi  | ing the | blank    |
| airli | ne i | icket | stock a  | as well  | as the  | plate us | sed to  | validate |
| the t | icke | t.    |          |          |         |          |         |          |

I'm going to show you Government's Exhibit 6 and ask you if you can identify that document (handing).

This is a ticket requisition which was prepared by Bayonne Travel, 219 Broadway, Bayonne, New Jersey, on May 11th, 1973, requesting 500 tickets.

> MR. MOSNER: Your Honor, would your Honor note my continued objection on the basis there's no foundation for these documents?

THE COURT: I thought the foundation had been supplied after we heard Mr. Zackaroff yesterday.

MR. ROSNER: Hearsay, your Honor.

THE COURT: Go ahead.

(Continuing) This requisition was received A by the Air Traffic Conference and forwarded then to Rand McNally in Nashville, Tennessee.

Can you tell when these tickets were requisitionea?

May 11, 1973.

|          |   |   | ^ |
|----------|---|---|---|
| <b>Z</b> | - | 4 |   |

50 1 Scinta-direct 2 Do you know whether or not those tickets 3 were actually shipped to Bayonne? They were shipped on May 23, 1973. MR. ROSNER: Objection, unless the witness 5 has personal knowledge, your Honor. If he's just 6 reading from a document in evidence, I would object. 7 8 THE COURT: Does the document show the date? 9 THE WITNESS: That's correct. 10 THE COURT: If it's from a document in 11 evidence, I'll overrule the objection. Sir, did there come a time when you in your 12 official capacity with the Air Transport Association 13 learned that these tickets did not arrive at the Bayonne 14 15 Travel Agency? We received several phone calls from various 16 17 airlines indicating--MR. ROSNER: Objection, unless the witness 18 has personal knowledge. When he says, "We 19 20 received," is no indication --21 THE COURT: Sustained. MR. CUNNINGHAM: Might I have one moment. 22 THE COURT: Yes.

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Do you know from your own knowledge as to

(Pause)

#### Scinta-direct

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Travel Agency?

A I do.

whether or not these tickets arrived at the Bayonne

Q How did you find out these tickets did not arrive at the agency? What steps were taken when the tickets did not arrive?

MR. ROSNER: Objection. Two questions here.

THE COURT: Answer the second one first.

THE WITNESS: Repeat it.

Q What steps did you take in the normal course of events when you've been advised that tickets have not arrived at a travel agency?

A We check with our office who controls the ticket requisitions, found out the signature copy of the ticket requisition, which is made by the travel agency had not been received. Then we contacted Rand McNally, found out the tickets had been shipped.

Then we contacted Wings & Wheels and found out that the tickets had been reported as missing.

Q Sir, what instigated this search to look for these tickets?

A Usually it's established on the ticket.

A Flight coupons used by the passenger.

When you say that --

Airlines, in turn, had been looking for the moneys for the tickets found the tickets had never been sold by the travel agent.

MR. ROSNER: Objection, move to strike all this testimony on the grounds it's all hearsay.

THE COURT: I suppose we can bring in a bunch of witnesses to establish each step, but I'll overrule the objection.

Mr. Scinta, what steps are taken in the normal course of events when a ticket is surrendered to an airline for travel as far as the current procedures are concerned?

A Following the flight the tickets for that flight are sent to their individual revenue accounting offices and at that point there's a match setup within the airline system; the flight coupon for usage is matched against the auditor coupon, which is the document used for payment of the ticket.

When they receive the order coupon, they know they've received the money and the flight coupons come in later.

In this situation the flight coupons come

MR. ROSNER: Objection unless he has

were sent to the travel agency?

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personal knowledge.

THE COURT: Does it show on the document? THE WITNESS: The document shows April 24,

'73, the order was filled and shipped.

Now, sir, did you learn in your official capacity whether these tickes ever arrived?

Yes.

Did they arrive at their destination?

No.

Can you tell us what steps you took to ascertain ...at?

We followed the same procedure I pointed out before, checking to see whether the ticket requisition had been received from the travel agent, when it wasn't, we went to Rand McNally and then to Wings & Wheels.

Did you similarly receive reports on usage as to those tickets?

We did.

Sir, I'm going to show you Government's Exhibits 1, 2, 3, 4 and 5 and ask if those are the tickets that are issued by the Air Transport Association.

Exhibits 1 and 2 were tickets issued to Greenwald Travel, Clifton, New Jersey.

Exhibits 4 --- 3, 4, and 5 were tickets

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# Q Does the Air Transport Association keep a

#### A We do.

list of all its authorized agents?

Q Do you know whether or not the defendant, Lawrence Alfano, is an authorized agent of the A.T.C.?

# issued to Bayonne Travel, Bayonne, New Jersey.

Scinta-direct

Q They were issued by the authorization of

the Air Transport Association; is that correct?

A They were issued for sale and for preparation for sale by the travel agent which we have approved for selling these tickets.

Q Who was allowed to sell Air Transport Association tickets?

A Only the agents which we appoint, give authorization to sell.

Q If someone wished to be in the business of selling airline tickets, what steps would they have to take? Would they have to apply?

There's certain steps taken such as inspection of the place that tickets are going to be sold, the financial status of the company, corporation or partnership, whichever the case may be, and various recommendations from certain individuals.

| A | He is not. |
|---|------------|
| Q | Sir, looki |

Q Sir, looking at the exhibits, take Exhibit

1 first of all, can you tell us what the value of that
ticket is?

A \$170.73.

Exhibit 2 is the same amount.

- O Ticket No. 3.
- A \$171.27.
- O No. 4?
- A \$171.27.
- O Ticket 5.
- A \$171.27.

Q If a person had purchased that ticket from an authorized travel agent, decided he would not wish to take the flight, could he return that ticket for a refund?

MR. ROSNER: Objection.

THE COURT: Overruled.

A He could return it to the travel agent from whom he purchased or from an airline.

Q What steps would you take if he was bringing it back to the ticket agent or the airline?

A If he would present this to the authorized travel agent from whom he purchased it, they would refund

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his money.

Q If he took it to the airline what steps would the airline take?

A If he took it to the airline whose plate appears on the ticket, they would in turn refund the ticket.

Q Sir, when tickets have been reported missing or stolen, is your organization taking any action with respect to those tickets?

A We issue a blacklist bulletin to all the airlines.

Q What is this blacklist bulletin?

A What's that?

Q What is this blacklist bulletin?

A A document which reflects the sequence of numbers of the tickets stolen, plus a summary of information surrour ing the theft or means in which they were found missing.

Now, sir, are these numbers -- are these numbers of these tickets also put into a computer?

A Certain airlines have computer capability.

Now, sir, when a ticket is surrendered for refund, to an airline, what steps are supposed to be taken by the airline?

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MR. ROSNER: Objection, your Honor.

THE COURT: Get a little foundation as to what he knows about airline practice.

- Q Mr. Scintal how long have you been employed with the Air Transport Association?
  - A Approximately seven years.
- Q What has your function been during the seven years?
- A For the most part, investigation of stolen airline tickets.
- Q In the seven years, approximately how many stolen airline tickets have you investigated?
  - A Several thousand.
  - Were these from various airlines?
- A These are from tickets which were stolen from, burglers of travel agencies and tickets that were missing in shipment.
- Q Did the investigation that you conducted familiarize you with the procedures employed by the various airlines?
  - A That's correct.
- dealt with personally in the seven years you're with the A.T.A.?

| 1  | Scinta-direct   |
|----|---|
| 2  | the Greenwald Tragel Agency, would anyone be authorized   |
| 3  | to use it?  |
| 4  | A No.   |
| 5  | Q Returning to the ticket that was issued by              |
| 6  | Central Tours, 22 East 29th Street                        |
| 7  | MR. ROSNER: Might we have an exhibit                      |
| 8  | number, your Honor?                                       |
| 9  | THE COURT: On the back is the exhibit                     |
| 0  | number, Mr. Scinta. You took it out of one of             |
| 1  | the envelopes.  |
| 2  | Q Let us identify by the number of the ticket             |
| 13 | so we don't get confused, 8213866044.                     |
| 14 | THE COURT: All right.                                     |
| 15 | MR. ROSNER: What exhibit number is that,                  |
| 16 | Mr. Cunningham?   |
| 17 | MR. CUNNINGHAM: Excuse me.                                |
| 18 | MR. ROSNER: What exhibit number?                          |
| 19 | MR. CUNNINGHAM: Either Exhibit No. 1 or 2.                |
| 20 | Q Sir, as far as the ticket on Central Tours              |
| 21 | is concerned, was that ticket validated by Central Tours? |
| 22 | A No.   |
| 02 | THE COURT: He can't tell that, can he?                    |

MR. CUNNINGHAM: Yes, I believe he can,

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your Honor.

hearsay.

THE COURT: The questioning is so wide you can't tell.

MR. ROSNER: I submit the probability is there's going to be some allegation of misconduct which obviously is not improper, but prejudicial to the defendant in addition of my own knowledge because we represent the building in which Central Tours either was or is located.

THE COURT: What you want to establish is that the agency was terminated--

MR. CUNNINGHAM: It wasn't. There is no allegation of impropriety. I'll make an offer of proof on the record. Mr. Scinta is going to testify that the bank which these people have to report to every ten days formerly was located in Newark and that there came a time in the summer of 1972 where Central Tours' bank was changed from Newark to Bayonne — to Boston. They had to take the plate back from them and gave them a new plate at this time. We have tickets being written on his plate one year after it was in the possession of Mr. Scinta. It's quite relevant to the fact this is a

counterfeit.

THE COURT: Don't ask him why. Ask him at the same time he issued at that time another plate and what the difference was between the two plates.

MR. ROSNER: Might I respond?

THE COURT: Yes.

MR. ROSNER: First of all, Mr. Cunningham
just used ord "counterfeit," which obviously
is a word denoting legal impropriety if not a
crime.

Secondly, Mr. Cunningham as the representative of the Government has indicated in the bill of particulars in response to our request that the Government does not know who stole the tickets or who issued the tickets or from whom Mr. Alfano received them. Thus, if your Honor permits this testimony, the clear inference to the jury is that Mr. Alfano is involved in counterfeiting the ticket, in producing the ticket as well as probably in the theft. It's in the bill of particulars as well as the indictment. I specifically except.

THE COURT: You've gone a long way.

MR. ROSNER: What is the purpose of proving

where was the central bank located for Central Tours?

In 1972 we had a contract with the Chase

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Did there come a time when you issued

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Central Tours a new plate?

| 1  |                 | Scinta-direct 69                             |
|----|-----------------|--|
| 2  | A T             | hat's correct.                               |
| 3  | Q, A            | t the same time did you take back the old    |
| 4  | plate?          |  |
| 5  | A I             | took back the old plate. The circumstances   |
| 6  | of my getting t | hat plate are not connected with this case,  |
| 7  | but I did pick  | up the plate.                                |
| 8  | Q 4             | then did you pick up the plate?              |
| 9  | Α (             | on July 6th, 1972.                           |
| 10 | Q 1             | That was prior to the issuance date of these |
| 11 | tickets in from | nt of you?                                   |
| 12 | Α :             | The date I have on this ticket in front of   |
| 13 | me, 0444, is 5  | /'73.  |
| 14 | . 0             | Can you explain how the stamp would get on   |
| 15 | these tickets?  |  |
| 16 | Α               | It would have to be a counterfeit.           |
| 17 |                 | MR. ROSNER: Objection, move to strike,       |
| 18 | move fo         | r mistrial.                                  |
| 19 |                 | THE COURT: Let me see.                       |
| 20 |                 | Does the travel agent have more than one     |
| 21 | plate?          |  |
| 22 |                 | THE WITNESS: No.                             |
| 23 |                 | THE COURT: I'll overrule the objection.      |
| 24 |                 | MR. CUNNINGHAM: I have no further questions  |
| 25 | your Ho         | onor.  |

You assumed that because the travel agent's

Through a chain of command of our office,

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travel agent gets a plate.

That's correct.

| - 11 |   |      |
|------|---|------|
| 1    | Scinta-cross 74   |      |
| 2    | Q Issued by the A.T.A. or A.T.C.?                       |      |
| 3    | A A.T.C.  |      |
| 4    | Q You state that Exhibit 13 is the plate th             | at   |
| 5    | was issued for Central Tours?                           |      |
| 6    | A That's correct.                                       |      |
| 7    | Q What happened to the plate issued to Grim             | es?  |
| 8    | A I don't know.   |      |
| 9    | Q The circumstances are, are they not, the              |      |
| 10   | travel agency that is large enough has several plates?  |      |
| 11   | Q I have no knowledge whether more than one             |      |
| 12   | plate. In fact, situations that I have been in, I don'  | t    |
| 13   | recall seeing more than one plate in a travel agency.   |      |
| 14   | Q How about a travel agency with multiple               |      |
| 15   | offices?  |      |
| 16   | A You have a home office and branches. You              | 1    |
| 17   | would have different numbers, different plates for each | ı    |
| 18   | office.   |      |
| 19   | Q In every instance?                                    |      |
| 20   | A Use Liberty Travel for example, twenty-               |      |
| 21   | five offices, twenty-five different plates. If the of   | fice |
| 22   | is located the same plate cannot be used in offices     |      |
| 23   | spread across the city. There's a different plate,      |      |
| 24   | different number, different address.                    |      |
| 25   | Q Suppose a travel agency had an office wi              | thin |

Did you pick up Grimes's plate also?

| 1  |               | Scinta-cross 76                                       |
|----|---------------|---|
| 2  | A             | No, sir.  |
| 3  | 0             | Didn't they charge from New York to a Boston          |
| 4  | Bank?         | Drain to talely can age those new house to a position |
| 5  |               | That's correct.                                       |
| 6  | A             |   |
| 7  | Q             | The plate was not picked up?                          |
| 8  | A             | On the occasion I picked up Central Tours             |
| 9  |               | ion this plate was used on another stolen             |
|    | ticket.       |   |
| 10 |               | THE COURT: Strike that out. That's not                |
| 11 | respon        | sive.   |
| 12 |               | MR. ROSNER: Thank you, your Honor.                    |
| 13 |               | THE COURT: The jury please disregard it.              |
| 14 |               | MR. ROSNER: Could the court reporter read             |
| 15 | my las        | t question.   |
| 16 |               | (Record read)   |
| 17 | -             | THE COURT: That meaning the Grimes plate.             |
| 18 | -             | THE WITNESS: As far as I know.                        |
| 19 | Q             | It was not picket up?                                 |
| 20 | A             | No.   |
| 21 | Q             | Didn't you say they changed the bank from             |
| 22 | New York to B | oston?  |
| 23 | A             | The procedure was not requiring them to               |
| 24 | return        | the plate.  |
| 25 | Q             | I ask you to look a Government's Exhibits 3           |

That's correct.

| 1  | Scinta-cross 78  |
|----|--|
| 2  | Q That, of course, assumes that the documenta-               |
| 3  | tion in front of you is accurate, right?                     |
| 4  | A That's correct.  |
| 5  | Q You have no knowledge that those were                      |
| 6  | really sent to Bayonne or Greenwald?                         |
| 7  | A That's correct.  |
| 8  | Q You've been with the Air Transporters, or                  |
| 9  | whatever it is, Air Transportation of America, for a long    |
| 10 | time?  |
| 11 | A Approximately seven years.                                 |
| 12 | Q Talked to a lot of travel agents?                          |
| 13 | A Lot of travel agents.                                      |
| 14 | Q You regulate travel agents as well,                        |
| 15 | don't you?   |
| 16 | A That's correct.  |
| 17 | Q You've heard of travel agents running short                |
| 18 | of tickets before they get a shipment, asking another agency |
| 19 | to send over some tickets?                                   |
| 20 | A (No response)  |
| 21 | Q Haven't you?   |
| 22 | A No.  |
| 23 | Q You never heard that?                                      |
| 24 | A No.  |
| 25 | Q You know it's not done?                                    |

I couldn't approximate the date without the

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bulletin.

tickets here.

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That's correct.

A-72 1 Scinta-cross 2 Your direct testimony seemed to indicate Q 3 that if somebody had presented these five tickets for 4 refund (indicating) the airline would have rejected 5 on the basis that they were reported lost or stolen. 6 Not in every instance. A 7 So you don't know in this instance whether 8 they would or would not have rejected? 9 I don't think the bulletin was available--A 10 Just yes or no. 0 11 I don't know. 12 You don't know? 13 Right. . 14 Because you don't know when the bulletin Q 15 was available? 16 That's correct. 17 Could you tell us when the ' lletin was Q 18 available? 19 I don't know. A 20 So you don't know whether they would have been 21 rejected for passage either? 22 I don't know. 23 The bulletin you described is the basis for 24 airline, not only rejecting a ticket that is presented for

refund, but is also used to reject the ticket that is

presented for passage; is that correct?

I don't know.

would have been presented for passage?

Can you tell us when Government Exhibit 2

24

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Right.

| - 11 |               |   |
|------|---------------|---|
| 1    |               | Scinta-cross [89]                               |
| 2    | Q             | Oh, so you don't know that?                     |
| 3    | A             | No.   |
| 4    | Q             | You're just reading it off of the tickets?      |
| 5    | A             | That's correct.                                 |
| 6    | Q             | If something other than an authorized           |
| 7    | A.T.A. or A.T | C.C agent in fact completed those tickets,      |
| 8    | those tickets | would be incorrect or would likely be incorrect |
| 9    | is that corre | ect?  |
| 10   | A             | That's possible, yes.                           |
| 11   | Q             | It's possible?                                  |
| 12   | . А           | Right.  |
| 13   | Q             | Take a look at Governments Exhibits 1, 2, 3,    |
| 14   | 4 and 5. Yes  | 've been investigating cases of lost or         |
| 15   | stolen ticke  | ts or alleged lost and stolen tickets for the   |
| 16   | last several  | years?  |
| 17   | A             | Yes.  |
| 18   | Q             | Without the knowledge or information you got    |
| 19   | as a consequ  | ence of the reports made to you as an employee  |
| 20   | of the assoc  | iation, of the conference, looking at those     |
| 21   | tickets on t  | heir face, could you tell that they were lost   |
| 22   | or stolen?    |   |
| 23   | . A           | No.   |
| 24   | Q             | No way.   |
| 25   |               | MR. ROSNER: I have no further questions,        |

## Scinta-redirect

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THE COURT: You may have redirect.

MR. CUNNINGHAM: At this time I ask that Government's Exhibit 13 be received in evidence.

THE COURT: Any objection, Mr. Rosner?

MR. ROSNER: Yes.

your Honor.

THE COURT: Come to side bar.

(Side bar)

THE COURT: What's the objection?

MR. ROSNER: First of all, your Honor, the objection is that (a), it's not connected with my client, (b) it's proof of another crime that my client is not charged with.

No. 3, and I say I'm uneducated, but I took a quick look, it looks to me like the printing was erased on Exhibit 13 is identical to the printing on the tickets. I looked at the dropped 9 at the bottom row. There's a bottom row, dropped 9 on 1 and 2. In addition, everything, virtually everything this witness has testified to, your Honor, is hearsay.

THE COURT: He's certainly testified that he actually picked this up. Whether it helps you or helps the Government is proper evidence anyway.

| 1  | Scinta-redirect [91]                                       |
|----|--|
| 2  | MR. ROSNER: I respectfully except,                         |
| 3  | your Honor.  |
| 4  | (In open court)  |
| 5  | THE CLERK: Exhibit 13 so marked, in                        |
| 6  | evidence.  |
| 7  | (So marked)  |
| 8  | REDIRECT EXAMINATION                                       |
| 9  | BY MR. CUNNINGHAM:   |
| 10 | Q I believe you testified the blacklist is                 |
| 11 | also utilized when passengers are checking in for flights. |
| 12 | A That's correct.  |
| 13 | Q Do you know from your own knowledge whether              |
| 14 | or not these blacklists are utilized on the New York to    |
| 15 | Florida run?   |
| 16 | A They are available. Whether used in each                 |
| 17 | and every instance, I don't know.                          |
| 18 | . Q From your investigation of various airlines,           |
| 19 | various conduct of various airlines, have you been able    |
| 20 | to ascertain a pattern of whether or not the blacklists    |
| 21 | are used on certain routes?                                |
| 22 | MR. ROSNER: Objection, your Honor.                         |
| 23 | THE COURT: Overruled.                                      |
| 24 | MR. ROSNER: Might I state the grounds?                     |
| 25 | THE COURT: What are you asking?                            |

MR. ROSNER: Might I state the ground for my objection.

THE COURT: All right.

MR. ROSNER: First of all, Mr. Cunningham is leading the witness.

Second of all, the witness already answered he has no knowledge with respect to whether they are used by the ticket agents on the Florida to New York run or the New York to Florida run.

I specifically submit what he's trying to do now is not only lead him, but impeach him.

THE COURT: He has a right to do that, too.

MR. ROSNER: I don't think he can impeach--

THE COURT: He's trying to find out whether the people who take your tickets when you go to an airline look, stop and look through a blacklist on each passenger.

MR. ROSNER: Your Honor, Exhibits 1 through 5 are on the New York to Florida run. In response to one of Mr. Cunningham's questions, the witness already testified that he knew that they were available but he had no knowledge with respect to their use. What's he trying to do, impeach that now?

| Scinta-redirect 93                                      |
|---|
| THE COURT: What's your question?                        |
| MR. CUNNINGHAM: I'm trying to find out if               |
| Mr. Scinta knows whether or not the blacklist is        |
| utilized by the air carriers on the New York to         |
| Florida run.  |
| MR. ROSNER: Asked and answered.                         |
| THE COURT: The objection is overruled.                  |
| Q Answer the question, sir.                             |
| A Yes, based on the number of tickets I picked          |
| up, from this one airline, I find that many tickets ap- |
| parently had slipped through on the Florida run.        |
| MR. ROSNER: Objection. Move to strike,                  |
| your Honor. Might I approach the bench.                 |
| THE COURT: Yes.   |
| (Side bar)  |
| MR. ROSNER: The Government has now started              |
| to introduce evidence of other criminal acts.           |
| THE COURT: Such as                                      |
| MR. ROSNER: Other tickets, the clear impli-             |
| cation they're stolen tickets. I specifically move      |
| for a mistrial, specifically indicate to the Court      |
| that Mr. Cunningham is doing this intentionally.        |
| He has impeached his own witness.                       |
| THE COURT: I don't think your objection is              |
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THE COURT: If your other testimony isn't ready, you may have to put in the Alfano testimony now so we're moving.

MR. CUNNINGHAM: When it goes in, it will be about three -- reading about three or four pages, very brief.

One subject I think we ought to bring up now is the fact about the tapes. Does defense counsel wish for the originals of the tape recording to be produced?

THE COURT: I presume he does.

MR. ROSNER: I object to the offer and the receipt of any of the tapes, originals, copies or transcripts.

> THE COURT: These are tapes of Mr. Alfano? MR. CUNNINGHAM: Mr. Alfano.

THE COURT: What's the objection?

MR. ROSNER: First of all, with respect to the Court's ruling on the motion to suppress, the Court determined that we did not have standing; therefore denied the pretrial hearing and the pretrial motion. On that basis I object.

Secondly, the tape recording, at least the one that I have a transcript of, was made some time

in August, which is subsequent to the charges contained in the indictment.

THE COURT: Most admissions occur, sometimes that come from a defendant, are after an arrest.

MR. ROSNER: They did not make reference to the five tickets referred to in the indictment. On the contrary, they refer, if anything, to other tickets. Therefore, they are proof, if anything, of a crime subsequent to the crimes charged in the indictment.

I would specifically submit, your Honor, that the law -- not only in this circuit, but generally in the United States, by decisions of the law, by treatises, indicate that under certain circumstances, in the exercise of the discretion of the court, proof of prior criminal acts, not amounting --

THE COURT: Proof of other criminal acts,

I think it is. Go ahead.

MR. ROSNER: I would specifically refer you to the decision of the Court of Appeals, 1973.

U.S. v. Brettholz, 485 F.2d 483, where they specifically said the law in this circuit is that evidence of prior similar acts is admissible for

purposes other than to show the criminal character or disposition of the defendant; that is, admissible if offered to prove knowledge, intent or design.

Similarly, the Fifth Circuit in U.S. v. Franklin, 471 F.2d 1299, 1973 decision, refers specifically to prior crime al acts.

Additionally, your Honor --

THE COURT: Was there any case that excludes evidence of subsequent similar acts? The Deaton case in this circuit says other acts are admissible.

MR. ROSNER: Additionally, your Honor,

I think what the Government has proposed here falls squarely within the opinion of the Eighth Circuit, which is now aged in Nicherlucke v. U.S.,

21 F.2d 511, where they try to establish knowledge as a requisite in a prosecution for interstate transportation in interstate commerce of stolen motor vehicles by proof of a subsequent alleged criminal act and the court in Niederlucke, very well reasoned opinion going to the heart of the whole concept of proof of prior similar acts, excluded it.

Finally, your Honor, McCormick handbook

Law of Evidence, indicates that the problem is not one, as McCormick says, of pigeonholing, but of balancing.

This may be, your Honor, anticipatory of what I expect the Government will offer through other witnesses that I have indicated they intend to call and this grand jury testimony and 3500 material as furnished to me yesterday.

As I anticipate the Government's course in this matter, through the witnesses Kilgallon, Maltese, and perhaps others, the Government intends to prove or attempt to prove acts by the defendant with respect to ten tickets subsequent to the five charged in the indictment.

It's got to be, your Honor, what they're going to be doing here is proving ten alleged subsequent criminal acts by the defendant in respect of the possession of stolen airline tickets alleged in the indictment.

The obvious prejudice to the defendant is so overwhelming as distinguished from the probative value that as McCormick indicates, and I quote, "The leeway of discretion lies rather in the opposite direction empowering the judge to exclude the other crimes of evidence even when it has

substantive, substantial independent relevancy,
if in his judgment the probative value for this
purpose is outweighed by the danger it will stir
such passion in the jury as to sweep them beyond
a rational consideration of guilt or innocence of the
crime on trial."

Here I would also add, your Honor, as your Honor may recall, subsequent to an initial motion to dismiss the indictment, originally filed, which was 74-4818, the Government superseded with the indictment on trial before your Honor, 75-298, indeed, the evidence of the subsequent alleged criminal act was available to the Government when they filed the superseding indictment and they determined in their wisdom and in their prosecutorial discretion, although they obviously had the grand jury testimony and the 3500 material that I am alluding to, they determined not to file charges with respect of those ten other tickets.

I think, having made that choice, within
the context of Brettholz, Niederlucke, McCormick
and the other cases, the proof of so-called other
crimes, particularly subsequent --not prior crimes-not leading to conviction, should be excluded.

THE COURT: What have you to say, Mr. Cunningham?

MR. CUNNINGHAM: Your Honor, this shows a reference in the conversation of Mr. Alfano on August 7th, 1973, where he makes reference to the crime for which he is charged.

In particular, I'm referring to the fact that tickets in Counts 1 and 2 of the indictment, Government's Exhibits 1 and 2, refer to the tickets of Mr. T. Alfano and Mrs. R. Alfano. There's a portion of the conversation, quite clear, no problem.

"I just came back myself. I took my whole family. I would never do that if I didn't think it was sure. Right."

There's a direct reference in that conversation to the crime that is alleged.

If your Honor please, this shows that this was not an isolated example. This was not a mistake, not an error. The defendant definitely had knowledge the tickets he was dealing with were stolen.

THE COURT: I also understand you can infer back as well as forward and that if you are dealing with Mr. Alfano's knowledge in June and July, what he knew in August has value, if not

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impelling value.

MR. ROSNER: Your Honor, I would specifically suggest the Court, in Niederlucke, addressed itself to that specifically. It's the only case I have been able to find where the issue is put four-square to an appellate court: Can you use subsequent criminal acts not amounting to a conviction to show prior knowledge? The court in Niederlucke specifically said no.

THE COURT: The Second Circuit has its own rule of other similar acts.

MR. ROSNER: Additionally, your Honor, what Mr. Cunningham just read from in respect of the transcript is three lines from an eight-page transcript. If all he wants to prove is those three lines and they only prove Mr. Alfano himself used those two tickets, I would respectfully suggest that Alfano, that proof is already inferentially in the record.

B. It could be supplied by Mr. Alfano's grand jury testimony. He doesn't need this proof of the August tickets allegedly used by June, subsequent criminal acts, to prove Mr. Alfano used two tickets in July. He's already got that.

THE COURT: He's not confined to what he

has. He can put in more. Your Brettholz case
has no relevance here. The Brettholz case was
extrinsic evidence of prior criminal acts. This
is the witness's own testimony. I can't conceive
of any circumstance under which -- I can conceive
of them -- but certainly this is not a circumstance
under which statements of the witness -- of the
defendant -- should be excluded.

MR. ROSNER: If anything, your Honor, this transcript proves subsequent criminal acts.

Presumably, even there it doesn't establish the requisite element of knowledge, No. 1.

THE COURT: Knowledge has to be established on the whole record, not on just one piece of evidence.

MR. ROSNER: That's the case, your Honor, then I would suggest that even in this one particular, the prejudice by proving subsequent criminal acts involving the same crime far, far outweighs the slight evidence that this would add to the entire record the Government intends to make.

THE COURT: These prior situations relate to tickets in the same batch, so-called subsequent act?

MR. ROSNER: I don't know that and I don't

think the Government knows that and I don't think they can prove it. I don't think they know where the alleged tickets that are involved in the conversation with June came from. They may be willing to argue—

THE COURT: I suppose that's so.

MR. ROSNER: They may be willing to argue they're from the same. Then you get into what Niederlucke clearly indicates is inference on inference to prove the final inference of knowledge.

THE COURT: And our Court of Appeals has specifically repudiated the idea you can't build an inference on an inference.

MR. ROSNER: Not in this instance, your Honor.

THE COURT: No, they haven't passed on this case yet.

Let's bring in the jury. The objection is overruled.

(The jury enters the jury box.)

THE COURT: It was a little longer recess than I planned on.

MR. CUNNINGHAM: The Government calls as its next witness Ms. Elizabeth Ng Young.

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20, 21, 12 and 22 on Greenwald Travel Service was contained

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in that delivery?

|    | A-99  |
|----|---|
| 1  | Zackaroff-direct [111]                                  |
| 2  | (Mr. Cunningham complies.)                              |
| 3  | MR. ROSNER: Objection.                                  |
| 4  | THE CCURT: Side bar.                                    |
| 5  | THE COURT: This is from Wings & Wheels.                 |
| 6  | MR. CUNNINGHAM: Yes.                                    |
| 7  | THE COURT: Objection overruled.                         |
| 8  | (In open court)   |
| 9  | THE CLERK: Government Exhibit 16 marked in              |
| 10 | evidence.   |
| 11 | (So marked)   |
| 12 | BY MR. CUNNINGHAM:                                      |
| 13 | Q Now, sir, in looking at that document,                |
| 14 | can you tell whether or not the tickets sent to Bayonne |
| 15 | Travel as represented on Government Exhibit 6, 8, 7, 9, |
| 16 | and 10 were part of that shipment received in Newark?   |
| 17 | A Yes, the corresponding bill number is on              |
| 18 | the bill.   |
| 19 | MR. CUNNINGHAM: I have no further questions.            |
| 20 | THE COURT: Cross-examination?                           |
| 21 | MR. ROSNER: Briefly, if I may.                          |
| 22 | THE COURT: Surely.                                      |
| 23 | CROSS EXAMINATION                                       |
| 24 | BY MR. ROSNER:  |

Q

Mr. Zackaroff, I show you Govenment's Exhibits

## Zackaroff-cross

| _ | _ |   |   |   |
|---|---|---|---|---|
|   | 1 | 1 | 2 |   |
|   | - | - | 4 | _ |

1 through 5. Do you have any knowledge of your own without just looking at those documents as to whether the entire tickets represented by 1 through 5 were ever shipped from Tennessee to New Jersey?

A By these tickets? No.

MR. ROSNER: No further questions, your Honor.

THE COURT: You can step down. Thank you.

MR. CUNNINGHAM: Could we have a side bar?
THE COURT: Yes.

(The following occurred side bar.)

MR. CUNNINGHAM: I have run out of witnesses.

THE COURT: You have the grand jury minutes to read and the tape to play.

MR. CUNNINGHAM: I can't play the tape until

I lay the foundation for the tap. I imagine

probably Mr. Rosner would wish to have originals

brought over and have them carried in here. These

are the same tapes we used in the Gallo trial, unless

Mr. Rosner will consent to the use of the duplicate.

MR. ROSNER: My objection, your Honor,

I can't consent to the usability of any of it.

THE COURT: All right.

| 1  | THE COURT: You're not going to use                |
|----|---|
| 2  | Mr. Freundlich?                                   |
| 3  | MR. CUNNINGHAM: He will identify the tape         |
| 4  | recordings saying he had heard the tape recording |
| 5  | and the voices are as claimed.                    |
| 6  | THE COURT: Bring the jury in.                     |
| 7  | (The jury enters the jury box.)                   |
| 8  | THE COURT: Ladies and gentlemen, every            |
| 9  | case is different from any other. This one has    |
| 10 | some built-in delays that I apologize for, but    |
| 11 | we're ready to proceed to some extent now.        |
| 12 | Mr. Cunningham, call your next witness.           |
| 13 |   |
| 14 | HOWARD BRUNN, called as a witness, having         |
| :5 | been duly sworn by the Clerk of the Court,        |
| 16 | testified as follows:                             |
| 17 | DIRECT EXAMINATION                                |
| 18 | BY MR. CUNNINGHAM:                                |
| 19 | Q By whom are you employed?                       |
| 20 | A Eastern Airlines.                               |
| 21 | Q In what capacity?                               |
| 22 | A Superintendent of investigations.               |
| 23 | Q How long have you been so employed there?       |
| 24 | A Twelve years.                                   |
| 25 | Q Now, sir, are you familiar with the process     |

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| 1  | Brunn-direct  |
|----|---|
| 2  | known as blacklisting of stolen or missing airline    |
| 3  | tickets?  |
| 4  | A I am.   |
| 5  | Q Do you have a copy of a blacklist with              |
| 6  | you now?  |
| 7  | A I do.   |
| 8  | Q May I see it, please.                               |
| 9  | A (A document is handed to Mr. Cunningham.)           |
| 10 | MR. CUNNINGHAM: Might I have this marked              |
| 11 | for identification, please.                           |
| 12 | THE COURT: Yes.                                       |
| 13 | THE CLERK: One-page document marked                   |
| 14 | Government Exhibit 17 for identification.             |
| 15 | (So marked)   |
| 16 | (Said document handed to Mr. Rosner.)                 |
| 17 | Q Can you tell what this document is?                 |
| 18 | A This is a bulletin put out by the Air               |
| 19 | Transport Association of America known as A.T.A. It's |
| 20 | sent to all revenue accounting agencies committees,   |
| 21 | audit committees and security committees from the     |
| 22 | Director of the Office of Entercement. Then it lists  |
| 23 | all agencies  |

MR. ROSNER: Objection. Not in evidence. THE COURT: He's not giving us the numbers. I think I'll let him describe what the practice

is with respect to it.

A (Continuing) It's a list of tickets that are lost in transit and they go by number and these numbers are then listed and they're blacklisted with the various carriers.

Q Could you tell us what blacklist -- what agencies that blacklist is for?

A Bayonne Travel, 819 Broadway, Bayonne, New Jersey.

MR. CUNNINGHAM: I would ask this be received in evidence.

MR. ROSNER: I don't think there's a proper foundation yet, your Honor.

THE COURT: Let me look at it.

(Said document is handed to the Court.)

(Side bar)

THE COURT: First, there are earlier bulletins, it refers to earlier bulletins. Do you know anything about this?

MR. CUNNINGHAM: Yes, your Honor, this all refers back to the seven shipments of tickets that were stolen in the New York Metropolitan area, st len during the three-month period of time. This blacklist just represents 900 of the

#### Brunn-direct

7,000 tickets that were stolen from the seven different shippers. If the Court would like me to redact it--

THE COURT: Mr. Rosner has a question about foundation. I'm not sure what more you think should be--

MR. ROSNER: I don't think mere identification is enough to have it admitted. I don't think there's sufficient foundation.

No. 2, there's indication here of other potential massive crimes not charged in the indictment.

THE COURT: . I think --

MR. ROSNER: It's not binding upon my client.

THE COURT: It bears when they were notified. If you were to block out these two (indicating), Mr. Rosner's other objection would then be covered. If you want--

MR. CUNNINGHAM: I'll be able to redact that.

MR. ROSNER: My question is are there notices earlier relating to the tickets that are charged in this indictment?

#### Brunn-direct

MR. CUNNINGHAM: I can get all of these notices if the Court wants it on Monday without difficulty.

MR. ROSNER: I'm asking--

THE COURT: I believe Mr. Rosner would like to see them. I'll receive them with the deletions as indicated. Make a copy of it.

THE CLERK: Government Exhibit 17 marked in evidence.

(So marked)

THE COURT: I'll receive it in evidence as to what I specified at the side bar.

MR. CUNNINGHAM: Would you direct the witness not to pay any attention to these two paragraphs.

THE COURT: Yes.

Q Other than those two paragraphs on the document, could you tell us what that is, sir?

A A list of tickets from the Air Traffic

Conference that were lost in transit, totals 900 tickets.

Now, sir, can you tell us what the practice is of the ticket agents at the receiving gates of the airport when they are receiving tickets on the New York to Florida run?

reissue or refund, and any instances noted be

referred to this office."

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training classes. A lot of tickets are suspicious. No. 1,

a travel agency ticket is suspicious if it's validated in

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California with a travel agency in California and they are traveling Miami to New York or New York to Miami.

If a ticket is open both ways, that is another occasion there might be something wrong with the travel agency ticket. They are definitely checked.

- O Pursuant to your instructions?
- A That's right.
- Q But the general instructions are to check every ticket against the blacklist?
  - A Yes, but it's almost impossible.
- of for passenger as such, in other words, when you check in, "I'm going to Florida, here's my ticket," how about if you present it for I think the word used here is reissue. You want to change either from one flight to another or one airline to another, is it checked then?
  - A It all depends where it's reissued.
- Q Let's assume it's reissued in New York,
  New York to Florida run.
  - A That's a good possibility it can be checked.
  - Q There's a good possibility?
  - A Yes.
- Q So that if somebody had an Eastern ticket and they went to National, to have National reissue the

No ticket is refunded at the airport.

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sent to Miami for refund.

from New York to Florida?

| 1  | A              | That's right.                               |
|----|----------------|---|
| 2  |                |   |
|    |                | Haven't you just testified                  |
| 3  | A              | You said as an agent. I assumed as an agen  |
| 4  | Q              | But as an agent you would also assume that  |
| 5  | you weren't ch | ecking every ticket, wouldn't you?          |
| 6  | A              | Not every one, no, I would assume that, yes |
| 7  | Q              | So how do you assume Ticket No. 1 would be  |
| 8  | checked if you | just testified that agents in the normal    |
| 9  | course don't b | ecause it's impossible to do it.            |
| 10 | A              | Coupon No. 2, I would never check Coupon    |
| 11 | No. 2 if I was | an agent.                                   |
| 12 | Q              | Assume that what you have in front of you   |
| 13 | is Exhibit 1 a | and 2 or Coupon No. 1. Will you check it?   |
| 14 | A              | No. ·                                       |
| 15 | . 0            | You wouldn't?                               |
| 16 | A              | (No response.)                              |
| 17 | Q              | It looks like a perfectly valid ticket?     |
| 18 | Α.             | Yes.  |
| 19 | Q              | How about Nos. 3, 4, and 5?                 |
| 20 | A              | They all look valid to me.                  |
| 21 | Q              | Nothing suspicious insofar as you're        |
| 22 | concerned?     |   |
| 23 | A              | No.   |
| 24 |                | MR. ROSNER: No further questions, your      |
| 25 | Honor.         |   |

Brunn-cross THE COURT: Any redirect? 3 MR. CUNNINGHAM: No. THE COURT: You're excused. Thank you, Mr. Brunn. (Witness excused) 8 those other documents? 9 MR. CUNNINTHAM: Pardon me? 10 11 12 THE COURT: Very well. 13 14 THE COURT: Yes. 15 (Side bar.) 16 17 18 for the day. 19 20 21 22 23 24 25

THE COURT: Do you want to ask him about

THE COURT: Before Mr. Brunn goes.

MR. CUNNINGHAM: No, your Honor.

MR. CUNNINGHAM: Could we have a side bar?

MR. CUNNINGHAM: My next witness will be Mr. Freundlich. That will be my final witness

THE COURT: All right, it's a fouled up day, but it's partly because witnesses didn't show up.

I had my law clerk talk with Samaratin Hospital which I know; the information I got there is that neither of their cardiologists would think of examining at home, which is adequate. If he can be brought to the hospital, they would

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THE COURT: Let's proceed.

MR. ROSNER: Can I be heard with respect to the tapes and the transcript?

THE COURT: Yes, all right.

MR. ROSNER: Or is it your Honor's desire not to rule on that at this juncture?

THE COURT: Is that your next witness?

MR. CUNNINGHAM: No, the only tape that is going to come into evidence, the tape previously turned over to counsel.

MR. ROSNER: Well, in that regard I would just respectfully request the court to redact from the tape and transcript the references to criminal acts not charged in the indictment.

THE COURT: What are they, I didn't see any.

MR. ROSNER: The reference to subsequent criminal acts with respect to airline tickets.

THE COURT: They are part of the same general transaction and the Court, our Court of Appeals has twice said that similar acts are admissible.

MR. ROSNER: On what issue?

THE COURT: The United States against Bond, Fed. 2nd, 669. And United States against Ve Oreo in 451, Fed. 2nd, 21 which treated it as so.

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MR. ROSNER: I haven't read any of those decisions. My question is whether the issue-there was knowledge or intent. I think there is a distinction.

THE COURT: Well, I would suppose it's clearly admissible on knowledge.

MR. ROSNER: I would suggest, your Honor, that it is admissible and perhaps in your discretion on intent, but not on knowledge.

THE COURT: Here it was for willful and intent and motive.

MR. ROSNER: Correct, your Honor. Wigmor is of the same view, but a different view with respect to knowledge which is the issue on trial. I respectfully call the Court's attention to Section 316 through 326 in Wigmor.

MR. CUNNINGHAM: Your Honor, the first Government witness will be Police Officer Wadell, who was the police officer who actually listened to the tape as it was being recorded. Perhaps since Mr. Rosner does not wish to have theidentity of the witnesses brought to the Court's attention as he did yesterday, as we did with Mr. Freudlich from the District Attorney's office, if he wishes to stipulate or if he wishes to examine Mr. Wadell before we put him on the stand and we can put the troes right —

MR. ROSNER: Would your Honor bear with me for one moment?

THE COURT: Yes.

Let me just put on the record I denied the motion to redact the tape in view of what I said about the law on the subject.

MR. ROSNER: The defense is willing to stipulate that without stating the employment of the witness, that if called, a witness would testify that the tape that is marked, I believe Government's Exhibit 18, is a duplicate original of the tape recording of the telephone conversation made at the Crossroads Bar, I think on August 7, 1973.

THE COURT: All right. Does that cover it?

MR. CUNNINGHAM: That would cover it, I believe,
your Honor. I would also ask at this time since we
have not come to the question of ruling on the
additional tapes which the Government will seek to
introduce, we had a similar tape that in effect brings
all the police officers here on Monday morning.

Do you have any objection to that -
THE COURT: I haven't ruled on those tapes yet.

MR. CUNNINGHAM: No, your Honor, but assuming
a favorable ruling were to be issued, it would
necessitate --

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MR. CUNNINGHAM: Thank you, your Honor.

THE COURT: The rule on this was that if there was any point at which Mr. Rosner wanted to hear the rest of it, any part of the grand jury testimony that you were going to omit it and he can put it in at that point.

MR. ROSNER: I had understood Mr. Cunningham and I agreed all of it would go in at the same time. He will read it continuously. I believe Mr. Cunningham is aware of those portions.

THE COURT: Read it all.

MR. CUNNINGHAM: Grand jury testimony of Lawrence Alfano before the United States District Court, Eastern District of New York, on February 21, 1974. Presented by Assistant United States Attorney Francis Sheerin and reported by Miss Elizabeth A. Ng.

"Lawrence Alfano, having first been duly sworn, assumed his seat as a witness and testified as follows:

"Examination by Mr. Sheerin:

"Question: Would you state your name for the record, please?

"Answer: Lawrence Alfano.

"Question: What is your occupation?

"Answer: I'm a manager of a bar and restaurant.

"Question: What's the name of that?

| 1  | "Answer: Cross Roads Lounge.                        |
|----|---|
| 2  | "Question: And who is the owner of the Cros         |
| 3  | Roads?  |
| 4  | "Answer: Robert Samponge.                           |
| 5  | "Question: Samponge?                                |
| 6  | *Answer: S-a-m-p-o-n-g-e.                           |
| 7  | "Question: Well, just call him Robert, all          |
| 8  | right?  |
| 9  | *Answer: Right.                                     |
| 10 | "Question: Now, do you have any other source        |
| 11 | of income besides your occupation at Cross Roads Ba |
| 12 | *Answer: No.  |
| 13 | "Question: Now, have you taken any airline          |
| 14 | trips in the past year yourself?                    |
| 15 | "Answer: Me myself alone?                           |
| 16 | "Question: Yes, no. You and either by               |
| 17 | yourself or with anybody?                           |
| 18 | "Answer: Me and my family.                          |
| 19 | "Question: You and your family, where did           |
| 20 | you go?   |
| 21 | *Answer: Florida.                                   |
| 22 | "Question: When did you go?                         |
| 23 | "Answer: In July of 1973.                           |
| 24 | "Question: On what airline did you travel?          |
| 25 | "Answer: Started out Eastern but I think I          |

| 1  | would up with another one that I can't remember because |
|----|---|
| 2  | the plane had broken down. I think it was Northwest.    |
| 3  | Northeastern. Something like that.                      |
| 4  | "Question: Where did you fly to?                        |
| 5  | "Answer: Fort Lauderdale.                               |
| 6  | "Question: Where did you stay down there?               |
| 7  | "Answer: My mother and father have ahome                |
| 8  | down there.   |
| 9  | "Question: How long did you stay about?                 |
| 10 | "Answer: Five days, six days.                           |
| 11 | "Question: And you came back on what airline?           |
| 12 | "Answer: National.                                      |
| 13 | "Question: National?                                    |
| 14 | "Answer: Yes.   |
| 15 | "Question. You didn't want to mess around with          |
| 16 | the broken planes?                                      |
| 17 | "Answer: (Laughter)                                     |
| 18 | "Question: Fave you ever taken any other trips          |
| 19 | in the past two years?                                  |
| 20 | "Answer: Yes. Same place.                               |
| 21 | "Question: Same place?                                  |
| 22 | "Answers Yes,   |
| 23 | "Question: Have you taken any other trips               |
| 24 | besides the two to Florida?                             |
| 05 | The very very one in November of this year              |

to Las Vegas.

1 "Question: Las Vegas? 2 "Answer: Yes. 3 "Question: What airline did you travel on? "Answer: American. 5 "Question: Now, was that a charter or was that 6 a regular scheduled flight? "Answer: : A charter. 8 "Question: Who was the charting agent? 9 "Answer: I really don't remember. I had 10 someone else make the arrangements for me, a friend 11 of mine. 12 "Question: Who? 13 . "Answer: Friend of mine. Sal Guida. 14 "Question: G-u-i-d-a? 15 "Answer: I don't know. I don't know how to 16 spell the name. 17 "Question: Where could Sal be found? 18 "Answer: Well, he's a friend of mine. He 19 comes up to my place of business. 20 "Question: When was the last time you saw him? 21 "Answer: When I was in Las Vegas with him. 22 "Question: Which was? 23 "Answer: November. "Question: Where did you stay there? 25 "Answer: At the Thunderbird.

| 1  | "Question: Was there a junketeer or somebody          |
|----|---|
| 2  | else that   |
| 3  | *Answer: No. It was just a charter flight             |
| 4  | whereas you pay a certain amount and you pay thehotel |
| 5  | and the flight.                                       |
| 6  | "Question: You didn't receive a complimentary         |
| 7  | room at thehotel or something like that?              |
| 8  | "Answer: Well, the price I paid included the          |
| 9  | flight and the room.                                  |
| 10 | "Question: What did you pay?                          |
| 11 | "Answer: For me and my wife, I think it was           |
| 12 | \$157 a person.                                       |
| 13 | "Question: To Las Vegas?                              |
| 14 | "Answer: Yes.   |
| 15 | "Question: That was round trip?                       |
| 16 | "A.swer: Yes.   |
| 17 | "Question: Now, how about on the other flight         |
| 18 | to Florida? Did you receive any discounts?            |
| 19 | "Answer: On the July flight, yes.                     |
| 20 | "Question: That was the last one?                     |
| 21 | *Answer: Yes.   |
| 22 | "Question: And what percentage discount did           |
| 23 | you receive?  |
| 24 | "Answer: I think it came to almost a third            |
| 25 | "Question: Almost a third?                            |

| 1  | "Answer: A third off, yes.                    |
|----|---|
| 2  | "Question: And from whom did yo u receive     |
| 3  | the tickets?                                  |
| 4  | "Answer: Well, I received it from a fellow    |
| 5  | that I was introduced through another person. |
| 6  | "Question: Who introduced you first?          |
| 7  | "Answer: Well, this fellow Mike.              |
| 8  | "Question: Mike who?                          |
| 9  | "Answer: Aderdizzo (phonetic).                |
| 10 | "Question: Mike Aderdizzo, something like     |
| 11 | that?   |
| 12 | "Answer: It's very hard to pronounce.         |
| 13 | "Question: when was the last time that you sa |
| 14 | him?  |
| 15 | "Answer: Outside.                             |
| 16 | "Question: How about Argondizzo?              |
| 17 | "Answer: I'd say Aderdizzo.                   |
| 18 | "Question: He shortly left the outside hallwa |
| 19 | you were sitting in?                          |
| 20 | "Answer: Yes.                                 |
| 21 | "Question: And he introducedyou to somebody?  |
| 22 | "Answer: Yes.                                 |
| 23 | "Question: Who did he introduce you to?       |
| 24 | "Answer: This fellow's name was Charlie.      |
| 25 | "Ouestion. Wis name was Charlie?              |

| 1    | "Answer: Yes.                                    |
|------|--|
| 2    | "Question: And when was that?                    |
| . 3  | *Answer: That was in May of 1973.                |
|      | "Question: And how many times did you see        |
| 4    |  |
| 5    | Charlie?   |
| -6   | "Answer: Since then, oh, I imagine about four,   |
| 7    | five times.                                      |
| 8    | "Question: When was the last time?               |
| 9    | "Answer: I imagine about August.                 |
| 10   | "Question: Around August?                        |
| 11   | *Answer: Yes.                                    |
| 12   | "Question: And is that Florida ticket the only   |
| 13   | ticket he sold to you?                           |
| 14   | "Answer: Yes.                                    |
| 15   | "Question: To you now?                           |
| 16   | "Answer: Yes.                                    |
| 17   | "Question: Did any other members of your         |
| 18   | family receive any tickets through that source?  |
| 19   | "Answer: Just that one flight that I took my     |
| 20   | whole family, my and my wife and three children. |
| 21   | . And yourself?                                  |
| 22   | *Anguess Yes.                                    |
| 23   | "Question: There were no other tickets that yo   |
| 24   | or your wife or your three children used, right? |
| 25 - | "Answer: No.                                     |

"Answer:

No.

| 1  | "Question: As far as coming from this source?      |
|----|--|
| 2  | *Answer: Just the five tickets. That's all.        |
| 3  | "Question: Now, did you get any tickets for an     |
| 4  | relatives?   |
| 5  | "Answer: No.                                       |
| 6  | "Question: Did you get any tickets through         |
| 7  | this source for anybody else?                      |
| 8  | "Angwer: Yes.                                      |
| 9  | "Question: For whom?                               |
| 10 | "Answer: Steve Moltese (phonetic).                 |
| 11 | "Question: Anybody else?                           |
| 12 | "Answer: Yes. There was another one, Danny         |
| 13 | Kilgallon (phonetic). Yes. Another close friend of |
| 14 | mine.  |
| 15 | "Question: Where does Danny live?                  |
| 16 | "Answer: In Kew Gardens someplace.                 |
| 17 | "Question: Do you have the address?                |
| 18 | "Answer: No.                                       |
| 19 | "Question: How do you get in touch with Danny      |
| 20 | "Answer: He comes into my place of business.       |
| 21 | "Question: What does he do for a living?           |
| 22 | "Answer: He's a milkman.                           |
| 23 | "Question: Do you know what dairy he's with?       |
| 24 | "Answer: Hegerman Holland, I think it is.          |
| 25 | "Question: How often does he come?                 |

"Answer: Twice a week.

"Question: Twice a week?

"Answer: Yes.

"Question: Now, any particular days?

"Answer: No. Just whenever he's around.

"Question: How were these tickets delivered to you? You did receive the tickets, didn't you?

"Answer: Yes.

"Question: What did you do, act as more or less a middle man?

"Answer: Well, not a middle man. Insofar as the fact is that I would get in touch with Mike and tell him that a friend of mine would like to get some tickets and naturally I would give Mike whatever information was involved and then Mike would deliver them to me.

"Question: And Mike would talk to the guy.
You wouldn't talk to him at all?

"Answer: No, because it's his friend. When I heard it was such a good thing then I passed it onto a friend of mine and that was Steve Moltese and I got him a few and I got in touch with Mike to get in touch with this fellow Charlie because I didn't know him.

"Question: But Mike was the one that made the

contacts with Charlie? 1 "Answer: Yes. 2 "Question: But you seen Charlie? 3 "Answer: Yes. "Question: You had seen him on a number of 5 occasions? 6 "Answer: Yes. At least four times. 7 "Question: You think you would be able to 8 recognize him? 9 "Answer: Yes, I think so. 10 "Question: What does he look like? 11 "Answer: A very small man, very thin, very 12 pale, pointy nose. 13 (Witness shown picture.) 14 "Question: Who is that? 15 "Answer: That's Mike, whatever his name is. 16 "Cuestion: That's Mike? 17 The Foreman: There's no name on 18 the front of the picture. The name on the 19 back is Michael Frank Argondizzo. 20 "Question: Can you tell us the location? 21 "Answer: 53-57 Metropolitan Avenue. 22 "Question: That's in Queens? 23 "Answer: Cross Roads Bar, Metropolitan Avenue. 24 "Question: Do you know a fellow by the name 25

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| 1  | of Steve from New York City?                  |
|----|---|
| 2  | "Answer: No.                                  |
| 3  | "Question: You don't?                         |
| 4  | "Answer: No.                                  |
| 5  | "Question: Lives on Mott Street.              |
| 6  | "Answer: No.                                  |
| 7  | *Question: You know no Steve living on Mott   |
| 8  | Street?                                       |
| 9  | Answer: No.                                   |
| 10 | "Question: Do you know a Wally Cascio?        |
| 11 | "Answer: No.                                  |
| 12 | "Question: You don't know a Wally Cascio?     |
| 13 | "Answer: No.                                  |
| 14 | "Question: How about a Paul Della University? |
| 15 | "Answer: No.                                  |
| 16 | "Question: Now, when was the last time you    |
| 17 | saw Mike A, Mike we discussed before?         |
| 18 | "Answer: Right outside.                       |
| 19 | "Question: Before that when was the last time |
| 20 | "Answer: Well, I have been in contact with    |
| 21 | him, I would say like every two weeks.        |
| 22 | "Question: When was the last time you saw him |
| 23 | now that yourecall?                           |
| 24 | "Answer: Last week he was in my place.        |
| 25 | "Question: Last week in your place?           |

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"Answer: Yes.

"Question: And you hadn't seen him since then at any other location?

"Answer: No. The only other time I have seen him is at my place of business.

"Question: Has he ever been to your home?

"Answer: No.

"Question: Have you ever been to his?

"Answer: Yes. Once.

"Question: With whom were you there?

"Answer: Alone.

"Question: Just you and --

"Answer: Just myself.

"Question: Was there anybody else there besides the people that live there and that's referring to Argondizzo or his wife or his children if he has any?

"Answer: Well, actually I never went up in his apartment. I just called for him because his phone was out of order and I had no way of getting in touch with him and I wasn't in his apartment. I was not in his apartment.

"Question: So you were never inside it?

"Answer: No.

"Question: Now, you run into somebody

by the name of Wally? 1 "Answer: No. I don't know any Wally. "Question: You don't know any Wally? 3 "Answer: No. "Question: You were talking before about a 5 friend of yours named Steve Moltese. 6 "Answer: Right. 7 "Question: Now, did you actually hand him the tickets, is that what happened? When you got them? 9 "Answer: Yes. I think so. I think I handed 10 him whatever was --11 "Question: Do you know a girl by the name of 12 Mary Tringali (phonetic)? 13 "Answer: Mary Tringali? "Question: Yes. "Answer: No. 16 "Question: Have you ever seen Moltese with 17 anybody other than his wife? 18 "Answer: Yes. 19 "Question: Who was that? "Answer: Girl named Miriam. "Question: Did you ever hand her any tickets? 22 "Answer: Yes. 23 "Question: How many tickets did you hand her? 24 "Answer: I don't remember. Could have been 25

| 1  | two, three.   |
|----|---|
| 2  | "Question: Are you talking about two occasions          |
| 3  | or two tickets?   |
| 4  | "Answer: Two or three tickets because one time          |
| 5  | was something involved, she was going with her children |
| 6  | so I don't remembe. that                                |
| 7  | "Question: Did the pay you mone, for that or            |
| 8  | he or who?  |
| 9  | "Answer: He did.  |
| 10 | *Question: He did?                                      |
| 11 | - "Answer: Yes.   |
| 12 | "Question: Now, what's your mother's first name         |
| 13 | *Answer: Anna.  |
| 14 | "Question: What's your father's name?                   |
| 15 | *Answer: Leonard.                                       |
| 16 | "Question: Now, the Alfano side of the family           |
| 17 | now, what are your uncles' names?                       |
| 18 | "Answer: I only had one uncle.                          |
| 19 | "Question: What's his name?                             |
| 20 | "Answer: Joseph. He's dead.                             |
| 21 | "Question: Joseph?                                      |
| 22 | *Answer: Yes.   |
| 23 | "Question: There's no Thomas or Theodore or             |

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"Answer: No.

something like that?

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|------|---|
| 1    | "Question: Did you get any tickets for any-       |
| 2    | body else by the name of Alfano?                  |
| 3    | "Answer: No.                                      |
| 4    | *Question? Approximately the latter partof        |
| 5    | June, 1973, did you fly to Forida?                |
| 6    | "Answer: No.                                      |
| 7    | *Question: Did anybody you know fly to            |
| 8    | Florida?  |
| 9    | "Answer: My children, two of my children.         |
| 10   | "Question: What are their names?                  |
| 11   | "Answer: One is Rosemary and one is Antoinette    |
| 12   | or Toni, may have been on the ticket.             |
| 13   | "Question: Where did you get these tickets        |
| 14   | from?   |
| 15   | "Answer: From the same place I got my original    |
| 16   | five. I had bought five all at once.              |
| 17   | "Question: So there are other tickets?            |
| 18   | "Answer: I bought five tickets total. Myself      |
| 19   | I sent them as soon as they got done with school. |
| 20   | Approximately June 30th. I sent them on first and |
| 21   | then I traveled later on in July.                 |
| 22   | "Question: That was on Eastern Airlines?          |
| 23   | "Answer: I don't remember if they went            |
| 24   | Eastern. I think they went National.              |
| 0    | The short 6/24 Eastern hirlings.                  |

### JFK to Florida?

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"Answer: It's possible that they went Eastern. I don't remember. I know mile but I had with National. I transferred them over to Eastern myself because I didn't like to fly National. Those were mine but their's, I imagine, their's could have been Eastern. It's possible.

"Question: Do you own any part of the Cross Roads Bar?

"Answer: No. I don't.

"Question: Do you have any interest in it whatsoever?

"Answer: No. I don't.

"Question: Have you ever?

"Answer: No.

"Question: Have you ever had any interest in any bar?

"Answer: No.

"Question: Have you ever had any rusiness interest besides working at the Cross Roads while you have been there?

"Answer: No.

"Question: So the Cross Roads is strictly your --

"Answer: My main source of income.

| 1  | "Question: -Bob who?                               |
|----|--|
| 2  | "Answer: Samponge.                                 |
| 3  | "Question: He represented him?                     |
| 4  | "Answer: Yes.                                      |
| 5  | "Question: You started to say partner.             |
| 6  | "Answer: No. My lips are very dry. Well,           |
| 7  | is my partner because we are partners in the house |
| 8  | in the bar.  |
| 9  | "Question: Did you start to say partner or         |
| 10 | what?  |
| 11 | "Answer: Maybe I did, yes.                         |
| 12 | "Question: What's your salary at the Cross         |
| 13 | Roads?   |
| 14 | "Answer: \$150 a week.                             |
| 15 | "Question: And that's all you make?                |
| 16 | "Answer: Yes.                                      |
| 17 | "Question: You drive a car?                        |
| 18 | "Answer: Yes.                                      |
| 19 | "Question: What kind of a car do you drive?        |
| 20 | "Answer: '73 Cadillac.                             |
| 21 | "Question: You own your own home?                  |
| 22 | "Answer: No.                                       |
| 23 | "Question: Apartment?                              |
| 24 | "Answer: What's that?                              |
| 25 | "Cuestion: You rent an apartment?                  |

| 1  | "Answel. Yes.  |
|----|--|
| 2  | "Question: What's the location of that?              |
| 23 | "Answer: 64-52 Madison Street.                       |
| 14 | "Question: Is that in Queens or New York?            |
| 45 | *Answer: Queens.                                     |
| 6  | "Question: You have no other source of income,       |
| 7  | is that correct?                                     |
| 8  | "Answer: No. I don't own the car. It's leased        |
| 9  | by Mr. Samponge.                                     |
| 10 | "Question: Do you own any other cars?                |
| 11 | "Answer: No."  |
| 12 | MR. CUNNINGHAM: At that point he was excused.        |
| 13 | THE COURT: Thank you.                                |
| 14 | MR: ROSNER: Might we approach the side bar           |
| 15 | for a minute?  |
| 16 | (Whereupon, the following took place at the          |
| 17 | side bar.)   |
| 18 | MR. ROSNER: Just to make the record clear,           |
| 19 | your Honor, I wanted to protect my rights in respect |
| 20 | to any proof of other crimes that is included in     |
| 21 | the grand jury testimony that was read. I assume     |
| 22 | your Honor understands the objection.                |
| 23 | THE COURT: Your objection stands and it is           |
| 24 | overruled and you can have an exception.             |
| 25 | MP POSNED. Thank you.                                |

(Whereupon, the following occurred in open Court.)

THE COURT: Suppose we cover the voice identification first? We haven't had anything in the jury about voice identification. Do that before you pass out the transcripts.

MR. CUNNINGHAM: Ladies and gentlemen, you're going to be hearing a tape recording. There is going to be a male voice on the tape who answers to the name of Larry. There has been a stipulation between counsel that Larry is identified on this tape, the man who answers to the name Larry has in fact been identified as the defendant Larry Alfano.

MR. ROSNER: That's correct, your Honor.

admit tapes into evidence, whether consentable tapes, when we let tapes in evidence, tape recording is a transaction of a conversation. That is what has been heard and what I have ruled is admissible in evidence under the law as it stands. The transcript which you are given to help you listen to the tape, if you hear something on the tape that isn't on the transcript it is what you hear that governs. If you see something on the transcript and you don't hear it on the tape, treat it as if it

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is for your quadance but the tapes is your evidence.

MR. CONNINGHAM: Your Honor, there is request by counsel to delete portions on the tope of this transcript.

THE COURT: Yes.

You may proceed.

(Whereupon, the tape was played to the jury.)

THE COURT: Mr. Cunningham, what is next?

MR. CUNNINGHAM: Your Honor, may we have a

side bar?

THE COURT: All right.

(The following occurred at side bar.)

MR. CUNNINGHAM: I'm out of witnesses, your Honor.

THE COURT: You can't find any of them?

MR. CUNNINGHAM: If we could have the jury dismissed I would like to make an application. I would like to explain infull detail.

THE COURT: What is your situation on Monday?
Will you be able to start at 12 or 2?

MR. ROSNER: I'm not sure, your Honor. Because
I don't know how the Appellate Division works.
The Second Department calls their calendar, I think
there are 25 cases and I don't know how they are

# A-136

| 1                   | and thank you all for being here. Mr. Cunningham, are   |
|---------------------|---|
| 2                   | you ready to proceed?                                   |
| 3                   | MR. CUNNINGHAM: Yes, your Honor, The                    |
| 4                   | Government recalls as its next witness Frank Scinta.    |
| 5                   | FRANK SCINTA, called as a witness, having               |
| 6                   | been previously duly sworn, resumed the stand and       |
| 7                   | testified further as follows:                           |
| 8                   | THE COURT: Mr. Scinta, you have been sworn              |
| 9                   | already in this case. You can take the witness stand    |
| 10                  | and you are under oath.                                 |
| 11                  | DIRECT EXAMINATION                                      |
| 12                  | BY MR. CUNNINGHAM:                                      |
| 13                  | Q Good morning, Mr. Scinta.                             |
| 14                  | Mr. Scinta, last week when you testified,               |
| 15                  | Government 17 was introduced in cvidence                |
| 16                  | MR. CUNNINGHAM: I would ask this be marked.             |
| 17                  | THE CLERK: One-page document marked Government          |
| 18                  | Exhibit 20 for identification.                          |
| 19                  | THE COURT: It cannot be 20.                             |
| 20                  | THE CLERK: We have a 20 already, I am sorry,            |
| 21                  | Government's Exhibit 23 for identification, and also    |
| 22                  | Government's Exhibits 24, 25 and 26 for identification. |
| 23                  | MR, CUNNINGHAM: I believe 55 was already in             |
| 24                  | evidence as Government's Exhibit 17. I am removing it.  |
| 25                  | Q Sir, I show you Government Exhibit 23 and ask you     |
| THE PERSON NAMED IN |   |

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Scinta-direct

if you can tell us what that is, sir.

A This is a bulletin, No. 49, dated May 30, 1973 to the review accounting agency, Security Committee of the airlines of my office, and the subject is stolen ATC tickets.

Q Mr. Scinta, are we correct in assuming this is a blacklist of tickets?

A That is right.

MR. CUNNINGHAM: I would ask this be received in evidence as Government Exhibit 23.

THE COURT: Have you looked at it?

MR. ROSNER: I object to it, your Honor. If we might approach the side bar?

(Side bar held without the learing of the jury, as follows:)

MR. ROSNER: As to No. 23, I do not think there has been a proper foundation as yet. Specifically as to 24 and 25, before the witness is shown those exhibits, I think they relate to possible proof of other crimes not charged in the indictment which do not appear to be connected with the defendant Alfano. I point out to the Court No. 24 and 25 have to do with Odyssey Travel Agency of which there has been no testimony and 25 has to do with Ambassador Travel, about which there is no testimony.

### Scinta-direct

THE COURT: These cover Greenwald and Baboy.

MR. CUNNINGHAM: I am offering 23 in evidence and 24 and 25 I simply want to have marked for identification so the Government will be complying with the Court's request to bring all documents referred to in Exhibit 17 before the Court.

THE COURT: Well, I would suppose 23 is admissible, is it not?

MR. ROSNER: Assuming a proper foundation is laid.

THE COURT: You have to show where he got it in the regular course of business. What are these?

MR. ROSNER: I do not have the slightest idea.

THE COURT: The writing, Mr. Cunningham.

MR. CUNNINGHAM: Those are the tickets. This probably should be redacted off there which I can do. It talks about tickets being validated by the Grimes Travel.

THE COURT: We have had Grimes in the case. Ask him about it.

(The side bar was concluded.)

#### BY MR. CUNNINGHAM:

Q On Government Exhibit 23 there is some handwriting at the bottom of that ticket. Is that your handwriting?

A No, sir.

#### Scinta direct

Q Do you know what it pertains to?

A I do not.

Q Referring to Government Exhibit 23, what is the origin of that document, do you know, sir?

A This document originated in the office of the Enforcement Air Transport Association office which I represent.

Q And is that a record kept in the ordinary course business?

A That is right.

Q And then it is mailed out to various members of the Air Transport Association?

A To the various airlines, yes.

Q And to the various airlines.

MR. CUNNINGHAM: I would ask this document be received in evidence and have the bottom portion, which apparently appears to be some handwriting, redacted from it.

THE COURT: All right. According to the ruling at side bar it may be received.

THE CLERK: Government Exhibit 23 marked in evidence.

(So marked.)

MR. CUNNINGNAM: At this time I would ask that the five airline tickets Government's Exhibits 1, 2, 3, 4 and 5 be received in evidence.

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# Scinta-direct

THE COURT: Is there any objection, Mr. Rosner? MR. ROSNER: I do not think a sufficient foundation has been laid by the earlier testimony.

THE COURT: Well, there may be a question for the jury on that. I will receive them in evidence.

THE CLERK: Government's Exhibits 1 through 5 marked in evidence.

MR. CUNNINGHAM: I would further ask your Honor that the tape recording and the line sheet of that tape recording be received in evidence at this time.

THE COURT: Were they not already marked? MR. CUNNINGHAM: I thought they were. There does

not seem to be any notation on the exhibit.

THE COURT: I guess we did not actually get back to it. Is there any objection, Mr. Rosner, to Exhibits 18 and 19 being received in evidence?

MR. ROSNER: I hate to say this, your Honor, but I have been laboring under the assumption that 1 through 5 and 17, and 18 had already been received in evidence.

THE COURT: The tape could not have been played if it had not been deemed in evidence.

MR. ROSNER: I think with respect to some of the tickets I voiced an objection and your Honor

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#### Scinta-direct/cross

overruled me and received them at that time.

THE COURT: 18 and 19 will be marked in evidence.

THE CLERK: So marked.

MR. CUNNINGHAM: Your Honor, I have no further questions of this witness, and the Government rests.

THE COURT: Mr. Rosner may want to cross-examine the witness.

MR. CUNNINGHAM: I am sorry, your Honor.

### CROSS-EXAMINATION

# BY MR. ROSNER:

Q Mr. Scinta, you have previously seen Government
Exhibit 22, have you not?

A That is right.

Q Do you recall when you first saw that?

A Last Thursday.

Q That was the first time you saw that?

A That is right.

Do you recall when Wings and Wheels first notified the Air Transport Association of these missing tickets?

A No, sir.

Q You have no idea?

A No.

Q Have you ever seen a Wings and Wheels overshort and damage report before?

| 1  | 11                     | Scinta-cross                                    |
|----|------------------------|---|
| 2  | A                      | Never.  |
| 3  | . Q                    | I assume your answer would be the same with     |
| 4  | respect to Exhibit 10? |   |
| 5  | A                      | That is right.                                  |
| 6  | Q                      | Directing your attention to Government's        |
| 7  | Exhibit 23 an          | d 17, you have testified, I believe, that the   |
| 8  | handwriting o          | n Exhibit 23 is not your handwriting and you do |
| 9  | not know who           | put the handwriting on there?                   |
| 10 | A                      | That is correct.                                |
| 11 | Q                      | Would your answer be the same with respect to   |
| 12 | Government's           | Exhibit 17?                                     |
| 13 | A                      | That is right.                                  |
| 14 | Q                      | With respect to both of these exhibits, did you |
| 15 | prepare these?         |   |
| 16 | A                      | No, sir.  |
| 17 |                        | MR. ROSNER: I have no further questions.        |
| 18 |                        | THE COURT: Is there any redirect?               |
| 19 |                        | MR. CUNNINGHAM: No, your Honor, there is not.   |
| 20 |                        | THE COURT: You are excused, Mr. Scinta. Thank   |
| 21 | you.                   |   |
| 22 |                        | MR. CUNNINGHAM: At this time, your Honor, the   |
| 23 | Govern                 | nment rests.                                    |
| 24 |                        | THE COURT: All right, I will ask the jury to go |

back to the jury room for a few minutes and still do not

#### CHARGE OF THE COURT

THE COURT: Gentlemen at counsel table,
Miss Villa Nueva, ladies and gentlemen:

You have now come near the climax. You have heard the evidence. You have heard the argument of counsel and it is my duty to tell you the law that you are to apply in deciding the case. First I will describe the general principles that apply to all criminal trials, then the nature of the charges in this case and the specific rules that apply to those charges, something about how to evaluate the witnesses and a few comments on the evidence and finally something about how you should reach a verdict.

In our system of justice it is the prosecution's duty to do his best to present the government's case and defense counsel to represent his own client's interest the best they can. The Court enforces the rules of evidence and the jury decides the truth or falsity of the testimony and inferences to be drawn from the evidence which is, I think, the real problem here.

It is your duty as jurors to follow the law as I have stated it to you and to apply that law to the facts as you find them from the evidence.

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You are the sole judges of the facts and you are 2 3 to perform your duty without bias, prejudice, for or against My party. The law doesn't permit jurors 4 5 to be governed by sympathy or prejudice or public opinion. The law presumes a defendant is innocent 6 of crime. So, nothing but legal evidence presented 7 before a jury may be considered in support of any 8 charges. presumption of innocence is enough 9 in itself to acquit a defendant unless the jurors 10 are satisfied beyond a reasonable doubt of the guilt 11 of the defendant on a particular count from all 12 the evidence in the case. 13 Now, I will just say a few words about how 14 Court's have interpreted reasonable doubt. 15

It starts from the word reasonable doubt and it is a doubt based on reason and common sense arising from the state of evidence or absence of evidence. A reasonable doubt doesn't mean a doubt a juror asserts arbitrarily to avoid doing something that is unpleasant. I doesn't mean proof beyond a reasonable. It's rarely possible to prove anything to an absolute certainty and the law doesn't require this. The phraseology has been frequently referred to as proof beyond a reasonable doubt refers

#### Charge of the Court

in your own important affairs. Where you heard conflicting facts that have been presented before you, you have to make up your own mind. This rule of proof beyond a reasonable doubt operates on the whole case. It doesn't mean that each bit of evidence must be proved beyond a reasonable doubt. It means that the sum total of the evidence, both from the government and from the defendant, must satisfy you as to each element of the crime charged or else you must acquit.

. Finding a person to be guilty of a felony and subjecting him to the criminal penalties is a serious matter and you can properly consider this in deciding whether you have a reasonable doubt.

(Continued on next page.)

THE COURT (Continuing) But, if you are convinced beyond a reasonable doubt of the defendant's guilt it is your duty to find him guilty and not be swayed by sympathy.

An indictment is just a formal method of accusing a defendant of crime. It's not evidence of any kind against the accused and the defendant's plea of not guilty means that the indictment and the plea create the issues that you are to decide. The law never imposes a duty on a defendant in a criminal case to testify or to produce any evidence. The fact that the defendant did not testify in this case does not constitute any inference of guilt. It is not a fact that you can even talk about in the jury room. You must consider the case solely on the evidence that has been presented here in the courtroom.

Since you are deciding the issues related to the indictment, I will read the indictment with the caution I have given to you about the fact that it morely states the issue.

"On or about and between April 25, 1973, and
June 25, 1973, within the Eastern District of New York,
which is this district, the defendant, Lawrence Alfano
did willfully and unlawfully receive and have in his

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Association airline tickets numbered 8213, 865-043 and 8213,865-044 having a value in excess of \$100, which goods had been stolen from Wings and Wheels Express, Incorporated, while moving as part of and constituting an interstate shipment of freight from Nashville, Tennessee to Newark, New 1 sey, the defendant, Lawrence Ifano, knowing the same to have been stolen.

May 23, 1973 and July 23, 1973, within the Eastern
District of New York, the defendant, Lawrence Alfano,
did willfully and unlawfully receive and have in his
possession approximately three Air Transportation
Association airline tickets numbered 8214-939-194,8214393-195 and 8214-939-196 having a value in excess of
\$100, which goods had been stolen from Wings and
Wheels Express, Incorporated, while moving as part of
and constituting an interstate shipment of freight
from Nashville, Tennessee to Newark, New Jersey.
The defendant, Lawrence Alfano, knowing the same to
have been stolen.

The dates in the indictment may be approximate as long as they are adequate to let the defendant know the charge against which he must defend.

# Charge of the Court

So you don't have to find exact correspondence with the indictment.

The charge is based on Section 659 of Title 18 of the United States Code which says, "Whoever steals or unlawfully takes from any aircraft, air terminal, airport or air navigation facility with intent to convert to his own use any goods or chattels moving or which is part of or which constitutes an interstate shipment of freight or other property, or whoever buys or receives or has in his possession any such goods or chattels knowing the same to have been stolen, shall in each case be fined or imprisoned.

I don't go into the terms of the penalties because that is for the Court to consider after a verdict, if there is a verdict of guilty.

I read the theft part because there must be a theft before there can be a charge of receiving stoles goods with knowledge they are stolen.

But Mr. Alfano is not charged with having any part in the theft of these goods. It is a charge of receiving, possessing stolen goods.

There are four elements of the crime as we call them, that must be established by the Government beyond a reasonable doubt in order to justify a

conviction:

First, that the defendant either received or possessed the airline tickets specified in the indictment.

Second, that those airline tickets set forth in each count are worth in excess of \$100.

Third, that the airline tickets were in fact stolen from interstate commerce; and

Fourth, at the time of receipt or possession of these tickets, the defendant, Lawrence Alfano, had knowledge that the specific airline tickets were in fact stolen.

The first element, possession, doesn't require that the Government prove that they were all in Mr. Alfano's hand at any one time. Proof that the defendant possessed something can be established by either actual physical possession or what the law calls constructive possession.

Physical possession is just what it means, having it for something and holding it actually in your hands or where you can touch it.

Constructive possession means that a person has present ability to control the property, to be able to direct where it should go or what should be done with it

# Charge of the Court

So if Mr. Alfano directed the tickets to be turned over to his children or his wife that could constitute constructive possession and satisfy the first requirement which you don't have to find.

That is for you to determine from the evidence.

The second question is the \$100 value. You can find that the tickets are worth the amount that is shown on the face of the ticket. There was some argument the tickets are worth less until they're filled out. Therefore they are not worth \$100. There is a provision in the statute for a lesser penalty if the amount of goods involved does not exceed \$100.

So that would constitute what we call a lesser included offense and if, under the indictment, if you find there was possession of stolen airline tickets, knowing they were stolen, you could still find that it was not worth \$100, but it was worth less than \$100. But that, again, is your function in deciding the facts.

That they were stolen from interstate commerce is a further element. It's not necessary the defendant have any part in the theft. Only that the tickets have been stolen. You can infer the fact that the tickets were stolen from the fact they did not get

to their destination. They were traveling from

Tennessee to New Jersey. That is interstate

commerce and goods remain in commerce until they

reach the ultimate consignee. So they must have been

stolen before they got into the hands of the Bayonne

Travel, and you can find they were stolen while they

were still in interstate commerce.

The question of theft has not been seriously disputed, but it still is an issue. If you find they disappeared in some other way other than by being stolen, that is within your province.

The basic problem you will have, however, is determining whether the defendant at the time he possessed these tickets knew they were stolen. There is one rule that applies in this case. That is that possession of stolen property shortly after it was stolen without a reasonable explanation for the possession permits the inference that the defendant knew that the property was stolen. You do not have to draw that inference. Bear in mind the defendant does not have to produce any evidence. He can explain it in some other way without testifying. You can determine what the period is that justifies the inference here that it may have been from two or three

# Charge of the Court

months between the theft and theuse and possession of the tickets. You can decide whether that is a sufficiently recent theft to justify the inference the one who possessed them must have known they were stolen.

Knowledge involves a state of mind on the part of the defendant. The burden is on the prosecution to prove the state of mind.

A person doesn't knowingly do a wrongful act if
the act results from a mistake or any other innocent
cause. Here, there is no direct evidence that
Mr. Alfano knew that the tickets were stolen, but
there is circumstantial evidence from which you can
infer that knowledge or you can refuse to draw that
inference. I have described, then, there is also a
rule that avoiding knowledge is equivalent of knowledge.

In other words, if a man knows facts which are sufficient to create a suspicion that the property has been stolen he cannot close his eyes to it. If he recklessly refuses to look into the fact or make inquiries that a reasonable man would make you can determine that this was equivalent of actual knowledge.

This is not a necessary inference. You can consider whether there is a reasonable doubt under all the circumstances that the defendant knew or

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recklessly refrained from finding out whether the tickets were stolen.

The Government has to prove each one of these four elements that I have just described beyond a reasonable doubt. You cannot infer the existence of one element from the proof of the other three. If any element has not been proved beyond a reasonable doubt then you must acquit the defendant.

Now I come to the question of evaluating evidence. That includes determining the credibility of testimony which is prime function of a jury. There are two types of evidence that we describe in the normal criminal case. One is circumstantial evidence and the other is direct evidence.

Mr. Cunningham has given you an illustration of circumstantial evidence. We have very little direct evidence. I don't know of any direct evidence on the subject of knowledge.

Eyewitness testimony is direct evidence.

Circumstantial evidence is proof of a chain of

circumstances that logically points to the existence

or non-existence of a certain fact. Generally, the

law makes no distinction between direct and circumstantial evidence. Circumstantial evidence to

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hypothesis of innocence. It is only necessary that the jury be satisfied with the defendant's guilt beyond a reasonable doubt on the basis of all the evidence in the case, both direct and circumstantial.

Circumstantial evidence alone may be sufficient to convict if you find a defendant guilty beyond a reasonable doubt on all the evidence in the case.

when you analyze the evidence you can draw reasonable inferences because from your own common sense and your own general experience from facts that you find were proved. You are not confined to the bare testimony or the bare bones of the testimony or the exhibits, but you can't just speculate or guess. You can't fill in any gap in the Government's evidence unless it's based on a reasonable inference from the facts that have been proved.

When you weigh the testimony of a witness you can consider the relationship of the witness to the Government and to the defendant. Their bias or interest in the outcome of the case, if any. Their manner while testifying. Their candor and intelligence as you have observed it. You can consider the extent to which any testimony has been corroborated

or contradicted by other credible evidence.

Inconsistencies within the testimony of any witness, either on direct or cross-examination, if there is anything untrue that has been stated by a witness, you can accept that part you believe is true and disregard the part that is not. When you find inconsistencies within the testimony of a witness or between one witness and another. Similarly pu can either disregard the testimony or pick and choose what sounds true and what is not true.

Bear in mind whether the inconsistency is on a basic matter or whether they are on minor details.

There is no requirement that the Government produce every witness who might be able to testify. You are to consider simply the evidence that is before you, whether the case has been proved or whether a reasonable doubt remains. And of course the issue doesn't depend on how many witnesses either side brought. It depends on the quality of the testimony and not the quantity. Insofar as any testimony was excluded you are not to guess what it would have been. Again, you are to decide the case only on what came before you and we made a couple of remarks and you should not consider pleasantries. Keep us out of your

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I am not going to comment at length on the evidence because you have heard from counsel about it and although it has been a week trial it has been a short number of hours you actually spent listening to testimony. But, I think a little attempt at an objective view of it may be helpful.

I think there is no serious dispute that Mr. Alfano did sell tickets at a discount. The question is whether he believed, whether he knew that they were stolen or shut his eyes. You have a variety of circumstantial evidence that you could use in that connection. You have testimony that the average person couldn't tell from looking at the tickets that they were stolen. You have the fact that Mr. Cunningham mentioned that the price at which the tickets were being sold was a different price from that that was stated on the face of the ticket which is one of the circumstances to consider in determining what Mr. Alfano knew or whether he was reckless in not finding outmore than he did. If he really believed in good faith that Mike got the tickets from Charley who got them from the travel agent that they were discounted tickets or travel agent discount and

they were stolen, he's not charged with cheating a travel agent, but if he didn't care where they came from and recklessly refused to inquire, you can find him guilty.

Miss Varisco testified that she believed that
these were discounted tickets from the travel agent.
She was a customer. You can believe her testimony
that that is justification for having bought the
tickets. It does not necessarily follow Mr. Alfano
knew or believed they were travel agent tickets
because that is what he told the ultimate customer.
You can find on all the facts what he actually knew
using the circumstances that you have heard in order to
try to look into his mind.

With respect to the taped conversations in

August, you can use that as an inference as to what

he knew in June and July. But, the inference back

from something that occurred later is not as strong

an inference than from something that came before.

So it is not as strong evidence as would be had he had

conversations prior to the actual use of the tickets.

You can consider that in relation to your determination of what weight to give the taped conversation.

There is a lot more to that I could say but I think your memories are good. I don't want you to think that the parts I have described are the only pertinent parts of the evidence or that I have indicated any opinion as to whether Mr. Alfano is guilty or not guilty.

You can consider all parts of the evidence.

You are the judges of the facts. Nothing that counsel and nothing that I have said prevents you from making your own decision about the facts on your own recollection of the evidence and apply it to the law as I have set it forth.

Now a few words about reaching a verdict: Your verdict must be unanimous on each count. That means all of you have to agree. It is wise to discuss the evidence rether fully before taking even a tentative vote so nobody jumps to a hasty conclusion before he has heard the entire case. You have to follow any instructions on the law, but you are the sole judges of the facts. If you want some testimony repeated you can hand a note to the marshal and ask for that to be done. I will get the reporter—find who was here at the time and find it and get counsel together and have it read to you.

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If you wart to hear the tape you can request that. If you want to look at any of the exhibits, you can ask for them and they will be sent an to you to look at. When you go to the jury room, Mrs. Dellanueva, she will act as your Foreman. She will try to make sure that everyone has a chance to talk and not everyone talks at one time. Review it quite fully. During your deliberations you should assume the attitude of judges and not partisans. In that way you will be making your contribution to the administration of justice.

You should report a verdict on both counts. You can find a defendant guilty command not guilty on the other. Or guilty on both or not guilty on both counts.

When you have reached a verdict you should give the marshal a note simply saying you have reached a verdict and when you are in court, Miss Dellanueva, you will report the verdict orally and either party can have the jury polled. That is, we call upon each person to say whether it is in fact his cr her verdict, so we will know it is in fact unanimous.

When you determine guilt or innocence you shouldn't give any consideration to the manner of

punishment. This matter is exclusively at the discretion of the Judge. If the defendant is found guilty, while there is a lesser punishment of the tickets are worth less than \$100. You should consider whether or not the Government has proven they were worth more than \$100 and not to compremise or attempt to alleviate the penalty that the law provides.

There will be marshals outside the jury room to let me know if you have a question.

While you are deliberating you should exchange views with each other, listen to each other respectfully. Don't hesitate to change your opinion if your attention is called to something that you ordinarily had not thought of or given enough weight to. But don't give up an opinion that you really believe in because more people are against you than for you. The verdict must be the verdict of twelve jurers exercising their individual conscientious determination.

I will plan on having lunch between 1:00 and 2:00 and I hope your lunch will arrive here. If there is a question that you have earlier than one o'clock I will be here glad to hear them. I hope

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you will be able to decide the case be ore the end of the day so I won't have to decide to keep you at night.

I will just wind up by saying your oaths that
you took when you were sworn as jurors sum up your
duties: "Without fear or favor to any man you will
fairly try the issues in this case between the
parties according to the evidence which you have heard
and seen and the laws of the United States."

Thank you for your attention. Please go to the jury room. I will excuse the alternate jurors at this time. You may go back downstairs.

Please swear in the marshals.

(Whereupon, the Clerk of the Court swore in marshals.)

THE COURT: The marshals have the official responsibility to see nobody intrudes on your deliberations. It is a long tradition that goes back to English law which American law is founded on.

Something that was not provided under English law, it provides your meals. In early England the jurors were kept without food or fire until they reached a verdict.

Please taken them into the jury room now.

# Charge of the Court

(Jury excused.)

THE COURT: Any exceptions, Mr. Cunningham?

MR. CUNNINGHAM: No, your Honor.

MR. ROSNER: Your Honor, --

THE COURT: Yes, Mr. Rosner?

MR. ROSNER: Your Honor, I do respectfully except to your Honor pointing out certain aspects in the instructions that refer directly in one or two places and indirectly in others as to the defendant selling tickets.

I think at one point your Honor said that there is no serious dispute that Mr. Alfano sold tickets at a discount. I think that compounds my exception to Mr. Cunningham's summation, as well as the reference to the selling aspect.

THE COURT: I will correct it.

MR. ROSNER: As well as the reference to the selling aspect, this section is 659 and with respect to your Honor's ruling on recent stolen goods I think it appropriate that the Court should instruct the jury as to a standard to be applied as to recent possession.

THE COURT: What standard?

MR. ROSNER: I have been trying to find one.

THE COURT: There isn't one. It is for the

jury to determine.

MR. ROSNER: It's a standard under all the circumstances.

THE COURT: I think that is adequately covered.

MR. ROSNER: In addition, I would request the Court to instruct the jury on possession of recently stolen goods. It does not cast any burden on the defendant whatsoever by way of explanation or otherwise. It is merely a permissive conclusion that they can come to.

THE COURT: I covered that adequately. "ou have no obligation to put in any testimony.

MR. ROSNER: Finally, I would except to your Honor's instructions on reckless avoidance of knowledge. In light of the Court of Appeals decision in U.S. v. Fields, 466, where the Court said that the Government did --

THE COURT: Get me the book.

MR. ROSNER: The Government did have to prove that the defendant actually knew the property was stolen and it was not sufficient on the evidence only to prove such knowledge, which I think the reckless avoidance violates --

THE COURT: I will get the case on which you ba: a reckless avoidance, which is the words of the Court of Appeals in a different panel problem.

MR. CUNNINGHAM: I believe that case was United States v. Larry Vega and United States v. Jolly.

THE COURT: Your point on knowledge, it must be actual knowledge.

MR. ROSNER: That's what the Court said. It merely tended to prove.

THE COURT: I didn't use the words tend to prove.

(continued next page)

MR. ROSNER: I am aware of that, your Honor.

But I think the instructions you gave on reckless

avoidance carry the impression to a lay jury, if they

do to me I would assume to a lay jury, that the

Government doesn't have to prove knowledge. It is

sufficient if it tends to, by the reckless avoidance

THE COURT: I will check that. Are all the exhibits on the Clerk's desk?

MR. CUNNINGHAM: They are.

THE COURT: Will you put them here? I am starting another case, but I think counsel should be around, but it is all right for me to send in the exhibits to the jury on a request without re-assembling counsel?

MR. CUNNINGHAM: I have no problem with it.

MR. ROSNER: I have no objection as long as they are exhibits in evidence. I think some are and some aren't.

THE COURT: Nothing that is for identification should go in.

MR. CUNNINGHAM: Your Honor, the only thing I would say, the grand jury testimony of Mr. Alfano, which cannot be sent into the jury room because there are redactions on it. It would be fairly difficult to send it into the jury. I think it would have to be

read back to the jury.

THE COURT: I have that on the bench.

MR. ROSNER: There are the Government's exhibits from the Airline Transportation Association. I believe it's Exhibit 17 regarding the Bayonne Travel Agency. An exception was taken to the third paragraph with reference to the other bulletin.

THE COURT: Yes.

MR. CUNNINGHAM: The bulletins have been redacted and other portions put backin.

THE COURT: What about it, Mr. Rosner?

MR. ROSNER: Again, your Honor, I except.

There is no foundation that it was admitted after subsequent evidence and your Honor overruled my objection still stands at the subsequent evidence.

At your Honor's discretion and/or judgment,
you indicated that the redacted portion should go back
in. I will obviously abide by that.

THE COURT: I don't see any harm in leaving it in.

MR. CUNNINGHAM: I don't, either.

THE COURT: Get the exhibits ready.

I have the case now, gentlemen. United States
v. Jacob in 475 F. 2d.

The Court of Appeals approved the Court's

charge which said if you find the defendant acted 1 with reckless disregard of whether the bills were 2 3 stolen with a conscious purpose to avoid learning the truth, the requirement of knowledge would be satisfied until the defendant actually believed that 5 they were stolen. 6 MR. CUNNINGHAM: They also cite the Bailer 7 8 case, don't they? THE COURT: Well, they cite a lct of cases in 9 this Jacobs case. This is the Holler case. 10 MR. CUNNINGHAM: Yes. 11 THE COURT: I am not sure. This goes on to say 12 that knowledge is established if the defendant was 13 aware of a high probability that they were stolen. 14 Unless he actually believed they were stolen. 15 MR. ROSNER: We may have to ask them to resolve 16 the conflict. 17 THE COURT: Do you want me to give a supplemental 18 charge on it? 19 MR. ROSNER: I am not sure which one your Honor 20 would give. 21 THE COURT: I'll use the Jacobs charge. 22 MR. ROSNER: I would ask if your Honor does 23 give the supplemental charge on the language that 24

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your Honor originally read from the decision, a

conscious purpose to remain ignorant. I would ask

your Honor as well to instruct them that the Government

must prove that the defendant knew that the property

was stolen and it's not sufficient that the evidence

only tended to prove such knowledge.

THE COURT: I will put that in. Bring them in.

MR. CUNNINGHAM: I would ask you give the

Jacobs charge in there as far as the last case came

down to the Court of Appeals in United States v.

Bright. I don't have the cite. Some time over the

summer I was talking about the necessity for a

balanced charge. I think that would be appropriate

right there.

THE COURT: Yes.

(Jury enters box.)

THE COURT: Ladies and gentlemen, I have been asked to make supplements to the charge, one correction.

If I said that there is no real dispute that the defendant was selling tickets that had in fact been stolen I misspoke myself.

The charge is that he received or had possession of them and that's all that is involved in the case.

These are tickets involved in the indictment, that he and his family used. So he's not charged with sale. He's charged with either receiving or having

them in his possession with knowledge that they were stolen. With respect to the wording of knowledge,

I'll use the exact language that the Court of Appeals has approved in another case dealing with stolen property.

demonstrating mere negligence or even foolishness on the part of a defendant. However, it is not necessary the Government prove to a certainty that the defendant knew the tickets were stolen. Such knowledge is established if the defendant was aware of a high probability that they were stolen unless he actually believed they werevstolen. Knowledge that goods have been stolen my be inferred from circumstances that would convince a man of ordinary intelligence that this is the fact."

The element of knowledge may be satisfied by proof that the defendant deliberately closed his eyes as to what otherwise would have been obvious to him, thus if you find that the defendant acted with reckless disregard of whether the tickets were stolen and with a conscious purpose to avoid learning the truth, the requirement of knowledge would be satisfied unless the defendant actually believed they were stolen."

When I say reckless disregard, I don't mean the facts that tended toward shows that they were stolen. But of facts that would indicate to a person 3 of reasonable intelligence that he should make an inquiry as to whether they were stolen and the same court says, "A purchase at a substantial discount price permits an inference the parties in the 7 transaction knew of the illicit character. Also the 8 entire conduct of the defendant at or near the time 9 the transactions are alleged to have been committed. ' 10 I hope with that you will be able to make a decision. 11 You can go back to the jury room. 12 (Whereupon, the jury returned to their 13 deliberations at 11:50 A.M.) 14 THE COURT: Yes? 15 MR. ROSNER: Where should we stay, your Honor? 16 THE COURT: Sit in the audience or in the 17 witness room across the hall. 18 19

MR. ROSNER: Does your Honor have any objection

to my going downstairs to speak to another Assistant?

THE COURT: No. Just so you are available on five minutes' notice.

MR. ROSNER: You may have to send the marshals through the building to find me.

THE COURT: If you are going to be very long at

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1 THE CLERK: Court Exhibit 3, jury note marked. 2 (Whereupon, the jury returned from their 3 deliberations at 2:20 p.m.) (Jury enters box.) 5 THE COURT: Madam Forelady, I have a note. 6 have reached a verdict. Would you please stand and 7 announce your verdict. 8 THE FORELADY: Yes. We find the defendant 9 guilty. 10 THE COURT: On both counts? 11 THE FORELADY: Yes. 12 THE COURT: Over a hundred dollar value? 13 THE FORELADY: Yes. 14 THE COURT: Will you please poll the jury, 15 Mr. Clerk? 16 THE CLERK: Ladies and gentlemen of the jury: 17 As the Court has received your verdict you say you 18 find the defendant guilty as charged. 19 Madam Forelady; is that your verdict? 20 THE FORELADY: Yes. 21 THE CLERK: Juror No. 2, is that your verdict? 22 JUROR NO. 2: Yes. 23 THE CLERK: Juror No. 3, is that your verdict? 24 JUROR NO. 3: Yes. 25 THE CLERK: Juror No. 4, is that your verdict?

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JUROR NO. 4: Yes.

THE CLERK: Juror No. 5, is that your verdict?

JUROR NO. 5: yes.

THE CLERK: Juror No. , is that your verdict?

JUROR NO. 6: Yes.

THE CLERK: Juror No. 7, is that your verdict?

JUROR NO. 7: Yes.

THE CLERK: Juror No. 8, is that your verdict?

JUROR NO. 8: Yes.

THE CLERK: Juror No. 9, is that your verdict?

JUROR NO. 9: Yes.

THE CLERK: Juror No. 10, is that your verdict?

JUROR NO. 10: Yes.

THE CLERK: Juror No. 11, is that your verdict?

JUROR NO. 11: Yes.

THE CLERK: Juror No. 12, is that your verdict?

JUROR NO. 12: Yes.

THE COURT: Thank you, ladies and gentlemen.

You have done your duty. You are now free to talk

about the case. You don't have to answer anyone's

questions and you should not tell anybody how you went

about reaching a verdict on your deliberations. Your

deliberations are confidential.

I thank you again.

(Jury excused.)

# REQUEST NO. V

Proof that the Defendant possessed the airline tickets as alleged in the Indictment requires that the Government prove that he either had actual physical possession or what the law calls "constructive possession."

Physical possession is just that: Actual p sical control and custody over an object, in this case, the airline tickets.

Constructive possession is something less than sical control or possession. To find that the Defendant and constructive possession, you must find that he had the actual present ability to control the tickets, to be able to assure the production and delivery of the tickets without difficulty to a customer as a matter of course. One who merely has a casual relationship with a person who has such tickets, but who lacks the working relationship to enable him to produce the tickets and assure delivery, does not have constructive possession.

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DEFENDANT'S REQUESTS TO CHARGE NOS. 2, 4, 5, 6

REQUEST NO. 4

In determining the value of the airline tickets, you must find that the airline tickets set forth in each count, -- two (2) tickets as to Count One, and three (3) tickets as to Count Two, -- at the time of the Defendant's receipt or possession had a value in excess of One Hundred (\$100.) Dollars.

### DEFENDANT'S REQUESTS TO CHARGE NOS. 2, 4, 5, 6

REQUEST NO. 5

Jane Wend

If, in determining the value of the tickets at the time the Defendant possessed them, if you find that he possessed them, you find that their value was less than One Hundred (\$100.) Dollars per Count, you must acquit the Defendant.

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#### DEFENDANT'S REQUESTS TO CHARGE NOS. 2, 4, 5, 6

### REQUEST NO. 6

In order to convict the Defendant of the two (2) crimes charged in the Indictment, if you find that the Defendant either received or possessed the airline tickets, you must also find that at the time of his receipt or possession, the Defendant knew that the tickets were in fact stolen, and the Government must prove the Defendant's knowledge that the tickets were stolen at the time he received or possessed them beyond a reasonable doubt.

Proof of knowledge by the Defendant that the tickets were stolen at the time he received or possessed them can come from either direct or circumstantial evidence.

In certain circumstances, where the evidence is such as to show the Defendant's possession of stolen goods within a recent period of time after the theft, that possession of recently stolen goods may be sufficient to convince you, the Jury, that the Defendant knew the goods were stolen. However, possession of recently stolen goods does not require you to conclude that the Defendant knew at the time of his receipt or possession that the goods were stolen but merely permits you to so find if the proof satisfies you beyond a reasonable doubt that the Defendant had such knowledge of the nature of the goods at the time of his receipt or possession.

### JUDGMENT APPEALED FROM

| Described to                     | LAWRENCE ALFANO  | CONT. VENEZA I                  | R 298   | a consider               |
|----------------------------------|--|---------------------------------|---|--------------------------|
|                                  | TODGMENT AND PROBATION COMMITMENT  | ORDE                            |   |                          |
|                                  | In the presence of the attorney for the government the defendant appeared in person on this date   | 12                              | 5DAY  | 1975                     |
| DUNSEL                           | WITHOUT COUNSEL  However the court advised defendant of right to counsel and have counsel appointed by the court and the defendant thereupon w  J. ROSDET, Esq.  |                                 |   |                          |
|                                  | WITH COUNSEL (Name of counsel)   |                                 | LI  | 0                        |
| PLEA }                           | GUILTY, and the court being satisfied that NOLO CONTENDERE, there is a factual basis for the plea,   | - UNO                           | C 5 1   | mt 20. 1                 |
| $\equiv$                         | There being a finding/verdict of Sullty. In count one  |                                 |   | 9/5                      |
|                                  |  |                                 | M   |                          |
| INDING &                         | Defendant has been convicted as charged of the offense(s) of violating T-18 Sec. 659, in that of or about and between April 25 the defendant, did wilfully and unlawfully receive possession approximately 2 Air Transport Assn. air having a value in excess of \$100, which goods had wings and Wheels Express Inc. while moving as part an interstate shipment of freight from Nashville, New Jersey, the defendant, knowing the same to have   | and h<br>line<br>een s<br>of an | une 25 ave in ticket tolen d cons to New                  | from<br>titut<br>sark,   |
|                                  | The court asked whether defendant had anything to say why judgment should not be pronounced. Because shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicts  | use no suff                     | icient cause  | to the cor               |
|                                  | was shown, or appeared to the court, the court adjudged the detendant guilty is charged and better the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for imprisonal transfer and the custody of the Attorney General or his authorized representative for the custody of the c | ent for a pe                    | riod of   |                          |
| ENTENCE                          | 2 years to run concurrently on counts 1 and<br>Defendant fined \$1,000 on count 1. Execution<br>sentence stayed pending appeal.  | 12 -                            |   |                          |
| OR<br>ROBATION                   | sentence stayes pensang appoint  |                                 |   |                          |
| ORDER                            |  |                                 |   |                          |
|                                  |  |                                 |   |                          |
|                                  |  |                                 | · ·-  |                          |
| SPECIAL                          |  |                                 |   |                          |
| PROBATION                        |  |                                 |   |                          |
|                                  |  |                                 |   |                          |
|                                  |  |                                 |   |                          |
|                                  |  |                                 |   |                          |
| DDITIONAL CADITIONS OF PROBATION | In addition to the special conditions of probation imposed above, it is hereby ordered that the general reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or any time during the probation period or within a maximum probation period of five years permitted probation for a violation occurring during the probasion period.   |                                 |   |                          |
|                                  | The court orders commitment to the custody of the Attorney General and recommends,   | -                               |   |                          |
|                                  |  | a certifie                      | red that the<br>d copy of i<br>nitment to<br>her qualifie | this judgment the U.S. M |
| OMMITMENT<br>RECOMMEN-           |  |                                 |   |                          |
|                                  |  |                                 |   |                          |

#### JUDGMENT APPEALED FROM

| Sec. 655, in that on or about and between April 25 and June 25,1873   |              |
|---|--------------|
|   | and a series |
| Where probation has been ordered the defendant shall, the ing the period of probation, conduct himself as a law industrious citizen and observe all condition of probation prescribed by the court. TO THE DEFENDANT — You industrious citizen and observe all condition of probation prescribed by the court. TO THE DEFENDANT — You industrious citizen and observe all condition of probation prescribed by the court. TO THE DEFENDANT — You industrious citizen from violation of any-law (federal, state, and local) and get in touch immediately with your probation are steed or questioned by a law-enforcement officer.  [2] associate only with law-abiding persons and maintain reasonable hours; 2 1 9 1 2 2 2 1 2 2 2 2 2 2 2 2 2 2 2 2 | When ou      |
| 2 years to run concurrently on counts 1 and 2 -   |              |
| Defendant fined \$1,000 on count 1. Execution of  |              |
| sentence stayed pending appeal.   | 13V.         |
| 1   | न            |
|   | B. 1. 7      |
|   | f. 3.        |
|   | 1            |
|   |              |
|   |              |
| RETURN  |              |
|   | 27 13        |
| I have executed the within Judgment and Commitment as follows:  | \$           |
|   |              |
| Defendant delivered on to   |              |
|   |              |
| Defendant noted appeal on   |              |
|   |              |
| Defendant released on   |              |
| Mandate issued on   |              |
| Mandate Issued on   | 1 - 2        |
| Defendant's appeal determined on  |              |
|   |              |
| Defendant delivered on to   | • " -        |
|   |              |
| at, the institution designated by   |              |
| the Attorney General, with a certified copy of the within Judgment and Commitment.  |              |
|   |              |
|   | **-          |
|   |              |
| United States Marshal.  |              |
|   |              |
| By  |              |
| Deputy Marshall   |              |

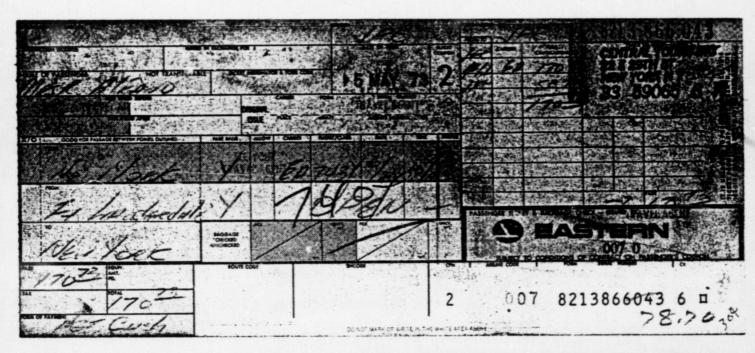
# NOTICE OF APPEAL UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

FILED

| _         |   |  |                       |   |               |                    |         |                          |                          |
|-----------|---|--|-----------------------|---|---------------|--------------------|---------|--------------------------|--------------------------|
| U         | NITED STATES                            | OF AMERICA   |                       |   |               |                    | -17 -18 |                          | 9 14 AH '7               |
|           |   |  |                       | Doc                                     | ket Number    | 75                 | Cr.     | 298                      | THE COURT                |
|           | again                                   | ist-   |                       | 0-                                      |               |                    |         |                          | 37,07                    |
|           |   |  |                       | 01                                      | rin G. J      | ict Court          | ludge   | 5.1                      | - 'i.                    |
| L         | AWRENCE ALFAN                           | 10,  |                       |   | (0.0          | lot oou.           | Judgo   | ,                        |                          |
|           |   | Defendant  | :                     |   |               |                    |         |                          |                          |
|           |   |  | NOTI                  | CE OF APPEA                             | AL.           |                    |         |                          |                          |
|           | Notice is hereby                        | given that   | LAWRE                 | NCE ALFANO                              |               |                    | :       | appeals to               |                          |
| th        | he United States Cou                    | urt of Appeals for   | the Seco              | ond Circuit from                        | the X Judg    | ment               | order   | _ other                  |                          |
| (s        | specify) of cons                        | viction  | _ entere              | d in this action                        | on Decen      | nber 5             | , 19    | 75                       |                          |
|           |   |  |                       |   | /-            | (Dat               |         |                          |                          |
|           |   |  |                       |   | for           | - A                | h-      | رع                       |                          |
|           |   |  |                       | Address                                 | JONATHA       | N L.               |         |                          |                          |
|           | Date December S                         | 5, 1975  |                       |   | 6 East        | 43rd               | Stre    | et                       |                          |
|           | HONORABLE                               | E BRVING TRA   | AGER                  |   | New Yor       |                    |         | rk 100                   | 017                      |
|           | United St                               | tates Attorn   | ney                   |   | (212)         | 561-21             | 50      |                          |                          |
|           | United St                               | tates Courth   | house                 |   |               |                    |         |                          |                          |
|           |   | an Plaza Eas   |                       |   | (212) 661     | 1-2150             |         |                          |                          |
|           | Brooklyn                                | , New York   | FIL                   | one Number .                            | 616) 00.      | 1-2100             |         |                          |                          |
| A         | (TO BE COMPLE                           | THE RESIDENCE OF THE PERSON NAMED IN COLUMN 2 IS NOT THE PERSON NA | 1571                  |   | T.LUCADIDT    |                    |         |                          | ,                        |
| •         | QUESTIONNA                              |  |                       | TRANSCRIP                               | T ORDER       | INFORM             | DE      | SCRIPTION                | M B OF PROCEEDING        |
| lam o     | ordering a transcript                   |  | -                     | e transcript of                         | I UNDEN       |                    |         |                          | CLUDE DATE).             |
|           | not ordering a transcript               |  | XP                    | re-trial proceed                        | ings          |                    |         |                          |                          |
| Re        | eason:                                  |  | XT                    | re-trial proceed                        | 5, 1975       | et seq             |         |                          |                          |
|           | Daily copy is ava                       |  | LX                    | entence Dec                             | . 5, 197      | 5                  |         | •                        |                          |
|           | U.S. Attorney has                       |  |                       | ost-trial procee                        | dings         |                    |         |                          |                          |
|           |   |  |                       |   |               |                    |         |                          |                          |
| he trans  | CORNEY certifies the cript. (FRAP 10(b) | Method of pa   | atisfacto<br>ayment L | Funds C                                 | s with the co | urt report         | ter for | payment                  | of the cost of           |
| ATTORN    | NEY'S signature                         |  |                       |   |               | DATE               | Dece    | ember S                  | 5, 1975                  |
|           |   | THE REAL PROPERTY.   |                       | A 18 / 18 / 18 / 18 / 18 / 18 / 18 / 18 | 164.4         |                    |         | HAND                     | WAR STATE                |
| •         | COURT R                                 | REPORTER AC  | KNOW                  | LEDGEMEN                                |               |                    |         | d by Cour<br>ourt of App | t Reporter and<br>peals. |
| Date orde | er received                             | Estimated comple   | etion dat             | le                                      |               | stimpted<br>pages. | numbe   | or                       |                          |
|           |   |  |                       |   |               |                    |         |                          |                          |
|           | Date                                    |  |                       | Signature                               |               |                    |         |                          |                          |
|           |   |  |                       |   |               | (Court             | Repo    | orter)                   |                          |

ORIGINAL

### GOVERNMENT'S EXHIBIT 1 - AIRLINE TICKET NUMBER 8213-866-043



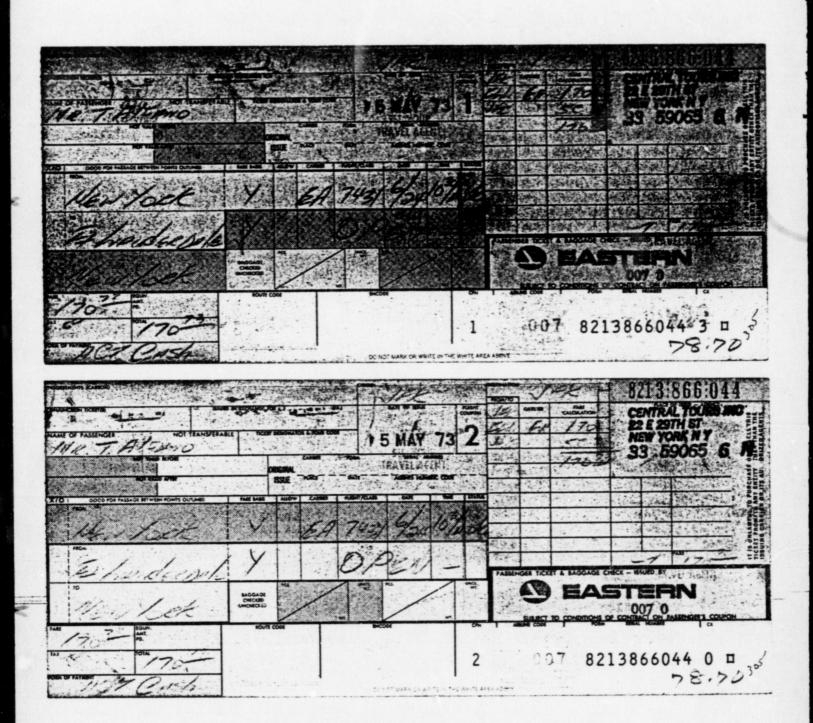
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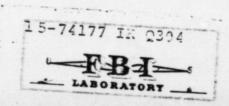
15-74177 IK Q305



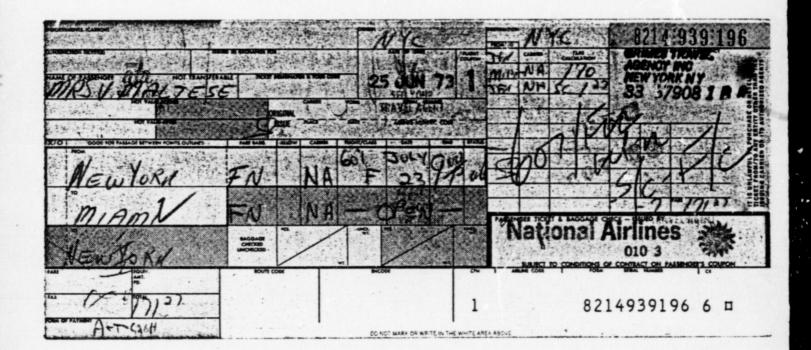
#### GOVERNMENT'S EXHIBIT 2 - AIRLINE TICKET NUMBER 8213-866-044



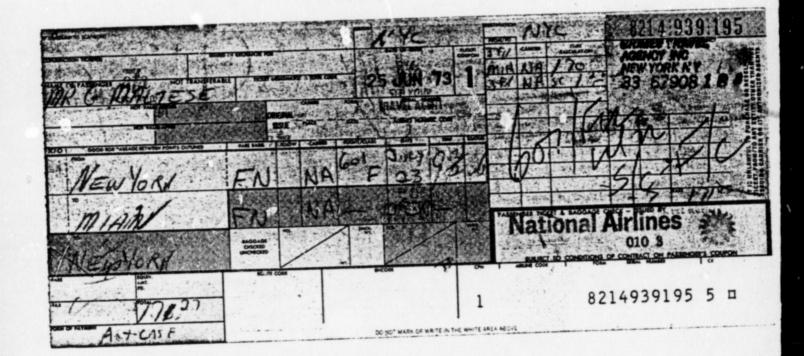




GOVERNMENT'S EXHIBIT 3 - AIRLINE TICKET NUMBER 8214-939-196



### GOVERNMENT'S EXHIBIT 4 - AIRLINE TICKET NUMBER 8214-939-195



GOVERNMENT'S EXHIBIT 5 - AIRLINE TJCKET NUMBER 8214-939-194

|             | FWYS.          | 8214/939:194                 |
|-------------|----------------|------------------------------|
| MRS HATESE  | 25 JAN 73      | 36/ NA &C /37 83 67908 1 8 4 |
| NEW YORK F  | N NAGOL TOPE   |                              |
| MIAMI F     | N NA - OF      | National Airlines            |
| TABLE WINDS | BOJE COM BECOM | 1 8214939194 4 II            |

## GOVERNME. | EXHIBIT 6 - ATC TICKET REQUISITION REQUEST, BAYONNE TRAVEL

| Saugin                      | oAA.                | ZIP 0 700  | 2_ RAN                     | BILLED<br>D MCNALLY & CO   | REQUISITION D  | 4/5/-  |
|-----------------------------|---------------------|--|----------------------------|--|--|--|
| ( T. )                      | NOV ORDERIN         |  |                            | MENR ZEAGGEGNTROL  | OFFICE USE ONLY  | mark to street the   |
| TYPE TICKET                 | QUANTITY<br>ON HAND | QUANTITY<br>REQUIRED   | QUANTITY                   | FORM AND SERIA   | AL NOS. SHIPPED  | NEMARKS \$   |
| CPN.                        |                     | Carried Control  | A                          | was marked the   | 25万万数地大"平台"  | 位的"说",就让一概   |
| CPN. 821                    | 100:                | 200  | 1 The Sales                | 4439101  | 4934900  | 4-2-3-4  |
| CPN. 8-30                   | 100                 | 200  | The William Co.            | 7373401  | 7373600  | The special section of the section   |
| CPN. 840                    | 100                 | 200  | 是一些温度                      | 8922601  | 841280   | Control of the last of the las |
| ELETYPE .                   | and the same        | 一、 作 经上  | 一位的特殊                      | The state of the s | THE RESIDENCE OF THE PARTY OF T | 1  |
| CPN. GROUP                  |                     |  | 一 2-1 人名英格                 | the second subject to  | <b>基</b> 工程度 1.5   | 1 20   |
| CP L GROUP                  | The second          | Carrier Co.  |                            | and the second   | September 1  | 1/2010   |
| ACHINABLE*                  | 1                   |  |                            | 一一一一里 一  |  | 01201  |
| co 801                      | 50                  | 200  |                            | 1955426  | 1955625  | 11 13.   |
| OUR ORDER                   | 50                  | 100  | 1. S. N. W.                | 0511651  | 03H750   | C//  |
| ALES REPORT                 | METERS ST.          |  |                            | The second section of the second section of the second section of the second section s | The second second  | 4/   |
| ICKET REFUND                |                     | 1 47   | The Section of the Section |  | 10.37 11.00  | /  |
| REDIT SALES PERANS. ATC-101 | 30                  | 200  |                            | 1236201  | 1236400  |  |
| REDIT CARD                  | 50                  | 200  |                            |  | 大百年至中国 和江  |  |
| IR TOUR REPORT              |                     |  | -                          | The state of the s | TO YOUR TO THE PARTY OF  | 1  |
| ATA TOUR REPORT             | -                   | The state of the s | 2 450                      | 13 10 11 11 11 11  | This sent on the sent of   | menso,   |
| TTC-5                       |                     |  | + + + +                    |  | 1000   | con pre!   |
|                             |                     | RED IN ATA AU  |                            | GENCY ACKNOWLED  | GEMENT OF RECEI  | PT OF ORDER  |
| OTHER                       | NK VAULT            | <u></u>  | DATE RECEI                 | VED  | 1979<br>1979   | h.   |
| ORDER FILLED BY             | Wil                 |  | SIGNATURE                  |  |  |  |
| ATE 5                       | -23-                | 13   |                            |  |  | N-635.   |

GOVERNMENT'S EXHIBIT 7 - BILL OF LADING, RAND McNALLY - BAYONNE TRAVEL

| 35,40000      | 296 A                            |                             |                      |                          |          | 4710   |                           | 5.  | <b>3</b> 2 ·                                     |
|---------------|----------------------------------|-----------------------------|----------------------|--------------------------|----------|--|---------------------------|---|--|
| Victor<br>His | & WHITE                          |                             |                      | CON<br>O THE TERMS AND O |          |  | CURRENTLY EFFE<br>HERECF. |   | RS IDENTIFICATION<br>T MENTION WHEN<br>REMITTING |
| DATE          | CONSIGNEE<br>STREET              | Bayon<br>219<br>Ba          | Broa                 | Tul<br>dway              | ĺΤ       |  |                           | 5 5 6.                                    | 20   |
| 117 2 1       | Citt                             |                             |                      |                          | 12 - 195 | [25][2][2]   [20][4][2][2][2][4][4][2][2][4][4][4][4][4][4][4][4][4][4][4][4][4] | 的第三人称形式 医皮肤 医皮肤 医皮肤 医皮肤   |   |  |
| FEE           | C. O. D.                         | DECLARED VALUE              |                      | WT./RT.                  | PICK-UP  | DELIVERY   | ADVANCE                   | ASSM/DISTR.                               | TOTAL CHARGE                                     |
| FEE           |                                  |                             |                      |                          |          | DELIVERY 465   | ADVANCE                   | ASSM/DISTR.                               |  |
|               | C. O. D.                         | DECLARED VALUE              | ALUE CHGS.           | WT./RT.                  | PICK-UP  | DELIVERY 465 DIAENSIONS  | ADVANCE<br>EA RCS         | ALIAN:                                    | PAY THIS AMO                                     |
| FEE PCS.      |                                  |                             | ALUE CHGS.           |                          | PICK-UP  | 465  |                           | ASSM./DISTR.  SPECIAL DELIT  SPECIAL PICK | PAY THIS AMO                                     |
|               | C. O. D.                         | B/L NO.                     | CO                   | WT./RT.                  | PICK-UP  | 465  |                           | SPECIAL DELP                              | PAY THIS AMO                                     |
|               | C. O. D.  WEIGHT  PROM CONSIGNOR | B/L NO.  SHIPMENT UNLESS LI | IS PREPAID ETTER "C" | MMODITY SHIPPED          | PICK-UP  | 465<br>DIAMSIONS   |                           | SPECIAL DELIF                             | PAY THIS AMO                                     |

### GOVERNMENT'S EXHIBIT 8 - WINGS & WHEELS AIRWAY BILL

| 5-23-73                               | 443490                   | FOR TERMS AND CONDITIONS SEE REVERSE SUPE UNLESS OTHERWISE INDICATED CHARGES ARE ASSUMED TO BE COLLE | Air Express  | International Will HARVARD AVE., ST | ngs & Wheeks       | 5    |
|---------------------------------------|--------------------------|--|--|-------------------------------------|--------------------|------|
| AIRLINE AIR                           | IILL NO.                 |  | and on Third Barriel III SPE<br>Police Party C. B. on Belliny Belling<br>3 A S 6 7   | PAGE ACCO                           | CHIT NO.           | ACCO |
| MPORTANT: S                           | RAND MCNAL               | all items between both lines, including SHIP   | SESSET AND ADDRESS OF A A A SESSEE   | otions are subject to a             | prrection.         |      |
| 2901 S                                | IDCO DR                  | Man Contraction  | 55620 5867   | 58552                               | 3 7 10 1           | . %  |
| NASHVI                                | LLE TENN                 | 12 95 O  | NEWASK X   | i to soste a                        |                    |      |
| BILL<br>TO:                           | 1                        | A SAME SALLA MADICANNERS AND ACT   | Trimes when my characters I good on  | Another many                        |                    |      |
| SIGNED FOR                            | 200                      | 000  | and we   | - act 1 1 1 1                       |                    | _    |
| Be of packages &<br>method of packing | 1                        | ELEGICACH SUP ANNE   | POUNDS (LE)  | C. O. D.                            | CHARGES            |      |
|                                       | 7/200                    | 2/2/10/2   |  |                                     |                    |      |
|                                       | (S)                      | 9/1/2  |  | C. O. D. FEE                        | 1= 4               |      |
| -                                     | 10 C                     | A P  |  | PICK-UP                             | 15.60              |      |
| (0)                                   | S. C.                    | 212  |  | CHARGES                             | 13.95              |      |
|                                       | 300                      | (6)34 CO X CO  | of the court is to be a second or the second of the second | CHARGE<br>ORIGIN CONNECTING         | .3.33              |      |
|                                       |                          | 0) 1   |  | CARRIER CHARGE<br>DESTINATION       |                    |      |
| CUSTOMER'S RE                         | STRUCTIONS:              | A part of parting  | DECLARED VALUE FOR   | CARRIER CHARGE                      |                    |      |
| CUSTOMER'S HE                         | RECEIVED                 |  | CARRIAGE   | ASSEMBLY/<br>DISTRIBUTION           | 3.00               |      |
|                                       | ×                        | SIGNATURE  | AR EXPRESS INTERNATIONAL CORP./ WINGS AND WINELS AT  | VALUE                               |                    |      |
| - DIMENSIO<br>WEIGH                   |                          |  | SHIPPER'S BOOK   |                                     |                    |      |
| PCS. L V                              | DATE                     | TIME   | OTT TRIMEN [11]  | TOTAL<br>CHARGES \$                 | 34.55              |      |
|                                       | CUBIC<br>INCHES<br>CUBIC | Bocaived above discribed carge in apparent good of   | rest, exceptions noted. DATE & TIME  | M. GOVERNMENT REGU                  | LATIONS REQUIRE PA | YME  |

5 - DUPLICATE INVOICE TO INSURE PROPER CREDIT - REMIT THIS PORTION WITH PAYMENT

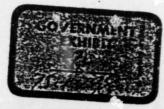
### GOVERNMENT'S EXHIBIT 9 - ALLEGHENY AIRLINES, AIRWAY BILL - WINGS & WHEELS - BAYONNE TRAVEL

| TO: |  | S determined        | Company of the Company                                 |                     |                   | -NEGOTIABLE                |
|-----|--|---------------------|--|---------------------|-------------------|----------------------------|
| FRO |  |                     | CHES M PLIGHT  |                     | Sand on the       | on the Back of the Airbill |
| Ö   | 37 13/0-1514 0365  | AY MO. YR.          | A  |                     | M                 | O VALUE CHER NICHES        |
|     | ROUTING: Airline routing applies unless shipper inserts specific   | to routing here     | PREPAID COL  | TECL                |                   | DOMESTIC PROBLE            |
| 1/  | TO VIA TO VIA  | TO. VIA             |  |                     |                   | ATRLINES, INC.             |
| 2/  | CONSIGNEE'S ACCOUNT NUMBER   | NSIGNEE_            | CHARGE CODES   |                     | CARRIER           | RUSE ONLY                  |
|     | 1411 6   | /                   | CC -COLLECT  |                     | . BATE            | WEIGHT CHARGES             |
|     | Wings & Whiel  | 5                   | CY -COLLECT CHEDIT<br>MX -PART PROPERD, PA             | RTIAL               |                   | A S                        |
|     | 4  |                     | MP-PART PREPAID. PA<br>COLLECT CASH<br>PG PREPAID GOAD | STIAL'              |                   | 8                          |
| ٠,  | 1/owack 11   | CODE !              | (100年)   |                     | Harley Total      | C DELIVERY                 |
| 3/  | DEL. SPECIAL INSTRUCTIONS ACCUDING CUSTOMER REFE   | MENCE NUMBER        |  |                     |                   | ERCESS AN, DE              |
| 4/  | SHIPPER'S ACCOUNT NUMBER   | HIPPER _            | CO. MED COMETR   | A STORY             | DEPTH CUBIC INCH  | ADVANCES .                 |
|     | NAME WINGS & WAR   | els                 | DIMERSIONAL WETLE                                      |                     |                   | OTHER .                    |
|     | STREET ADDRESS   |                     | C.O.D. SHIPWENT  | by Si. Sher         |                   | SHIPPER'S C.O.D.           |
|     | 1/45hvi/le Te.   | DA .                |  | 1                   |                   | C.O.D. FEE                 |
| 5/  | PICK RIP ORIG. ADV CHGY DESCRIPTION OF ORIGIN ADVANCE CH   | OS. DES             |  | DESCRIPTION OF DEST | NETTON ADV. CRGS. | TAX .                      |
| 6/  | OTHER CHANGES DESCRIPTION OF OTHER CHARGES   |                     | 4 G.BL NUN   | BER                 |                   | T \$                       |
|     | NO. PCS. WEIGHT DESCRIPTION OF PIECES AND  | CONTENTS PACKING. N | IARKS. WUNBER  | CARRIER G           |                   | HO. CARRIER CONNTY         |
| 7/  | 41 788 Chr M)  | 0                   |  | /                   |                   | /                          |
|     | - 233 REWEIGHA   | BY BNA              | 2  | /                   | /                 | /                          |
| -   |  |                     |  | /                   | 1                 | /                          |
|     | - BUL HS   | 22265-              | 296  | /                   | /                 | /                          |
| 8/  | A 32.43 B  | ELIVERY EXCESS      | VALUE ADVANCE  | E                   | OTHER G           | HIPPER'S C.O.D.            |
| T   |  | TO 2ND RA           | ITE 31   | RD RATE             | A - 1             | 340                        |
| Ш   | BNAD Louis   | S-Z                 | 3 2  | 200                 | ITEMS OLLECT      | CONSIGNEE PAYS             |
|     | The state of the s | 113                 | .2 11  | 03                  | 7 O.              | 7514 0365                  |
|     | •  | (                   | 3 INVOICE  | 00                  | INA               | 014 0303                   |

### GOVERNMENT'S EXHIBIT 10 - O.S. AND D. REPORT OF LOSS - WINGS AND WHEELS

|   | **                 | 1          | 701                                  | No. 01200     |
|---|--------------------|------------|--------------------------------------|---------------|
|   | wings &            | WHEEL      | s, INC.                              |               |
| OVER                                      |                    | 1+16       | DAMAGE                               | REPORT        |
| Station NEWARK N                          | ew Jersey          |            | te June 7, 19                        |               |
| Air Bill 108NA-4232                       | 96 A 3/23 Car      | riers A/B  | No. 37 BNA 757                       | 40365         |
| Number of Pieces 1 E.  Commodity AIR LINE |                    | No. Pcs.   | Declared Value                       |               |
| Consignee BAYONNE.                        | TRAVEL SERVICE     | е, Внуш    | THE STATE OF THE PARTY OF THE PARTY. | Chest contact |
|   |                    |            |                                      |               |
| Description of OS or I                    |                    |            | Wheels office                        | MAY 29, 1973  |
| Where or How Did US                       | or Duccur? The     | knowa) iki | UN-But Truck                         | us to Dienee  |
| States that the                           | FRT WAS Plu AND    | o in He T  | ruck morning of                      | MAY 25, 1973  |
| Ref To Trucken                            | MANIFEST . PCE HA  | as beed c  | hecked As Rec                        | by Tevekers.  |
| Action Taken NAShvil                      | Le Station Noticed | To BLACK L | ist Amhine Ticke                     | <i>t</i> s    |
|   | •                  |            | <u> </u>                             |               |
|   |                    |            | -                                    |               |
| Original                                  | SO A SUPPLIES      |            | Signed Mh                            | sharff        |

Claims Dept. G. Duplicate Station File



### GOVERNMENT'S EXHIBIT 11 - A.T.C. TICKET REQUISITION REQUEST - GREENWALD TRAVEL

| POILS 114                  | Market S                                | t. 070                       | AGENCY PASSE                          | NECTICUT AVE., N. W. IGTON, D. C. 20036 ENGER TICKET REQUISITION   | AGENCY NO                             | 3-DIGIT NUMBER ONLY) Apr. 12, 19 DATE 1/23/73 |
|----------------------------|---|------------------------------|---------------------------------------|--|---------------------------------------|---|
| PETITION                   | 192000                                  | ZIP                          |                                       | /BILLED #  | DATE LAST REQUISIT                    | ON  |
| Charles Carrier            | 4                                       |                              | 4                                     | RAND HENALLY & CO  |                                       | and the day of the same                       |
| AGI                        | ENCY ORDERIN                            | -                            | 4.35.000元首节被5                         | FOR AFAC CONTROL C   | OFFICE USE UNLT                       | A TONE  |
| TYPE                       | ON HAND                                 | REQUIRED                     | SHIPPED                               |  | TO TO                                 | REMARKS                                       |
| CPN.                       | - A -                                   | 1000                         | THE PERSON                            | · 大学工作。1980年   | · · · · · · · · · · · · · · · · · · · | -   |
| CPN. 821                   | 500                                     | •                            | "一","一个人是是是一个                         | 3865101  | 3866100                               |   |
| CPN.                       | Stance Towns                            | Longitud Calendaria (1)      | Section 1                             | and the part of the said   | 2011070                               | 91  |
| CPN. 890                   | 200                                     | 500                          | AND MARKET OF                         | 824/801  | 8242300                               | minutes of the second                         |
| LETYPE .                   | (A) | \$ 30 A A                    |                                       | The state of the state of  |                                       | <b>公司的基本的</b>                                 |
| CPN. GROUP                 | 1845 - 1960                             | the cent is                  |                                       | · · · · · · · · · · · · · · · · · · ·  | a township of                         | 0.000   |
| CPN. GROUP                 |   | central for the second force |                                       | The second second second   |                                       | N XI  |
| ACHINABLE*                 |   | 1 10000                      | 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 | The state of the s | TA I                                  | 20 000  |
| 00                         |   |                              |                                       | 8  | W.                                    |   |
| UR ORDER                   |   |                              |                                       | andred 20%   | net in                                | 1   |
| C-100/100A                 |   |                              | and the                               |  | 0                                     | 101   |
| CKET REFUND                |   |                              |                                       | 1  |                                       |   |
| EDIT SALES                 | es and s                                |                              |                                       | 3  |                                       | 1 000   |
| EDIT CARD<br>VOICE ATC-122 | Section 1                               |                              | 1                                     |  | ,                                     | 1 Nor 1                                       |
| R TOUR REPORT              | Hall All Street                         |                              |                                       |  |                                       | 1 6   |
| TA TOUR REPORT             | 一大大 一                                   |                              |                                       |  |                                       |   |
| HER                        | 1000                                    |                              |                                       | 一 一 一 一 一 一 一 一 一 一 一 一 一 一 一 一 一 一 一  |                                       | /   |
| HER                        |   |                              | -                                     |  | PARTIE OF SPAF                        | DT OF OPDER                                   |
| SAFE A BA                  | T STOCK STOP                            | RED IN ATA AU                | AGENCY                                | GENCY ACKNOWLED  | SEMENI UP RECE                        | IFT OF ONDER                                  |
|                            | GT                                      |                              | DATE RESE                             | VED  |                                       |   |
| DER FILLED BY              |   |                              | SIGNATURE                             |  | garage Armabalan                      |   |
| TE:                        | 4/24/2                                  |                              |                                       | NFORMATION ( YEA   |                                       | N-5160  |
| gr. 73 /2                  |   |                              |                                       |  |                                       |   |

# GOVERNMENT'S EXHIBIT 12 - BILL OF LADING - RAND McNALLY-GREENWALD

| SHIP ORDER AIR BILL OF LADING  | 공원 선명 전환 경기에게 가득하고 있다는 전쟁을 받는 것 같습니다.  | 3 3 10 C   |
|--|--|--|
| WE AT THE PROPERTY OF THE PROP |  | 1/5/10/10  |
| ALL A CONTROL OF THE PROPERTY  | PACE TARGET  | GREAT GREAT PROOF  |
|  |  | entral succession generality   |
| Treenwald Tul, Svo.  |  |  |
| DDRESS -   |  |  |
| THE MAKEUT STATE   | SMORE THE PROPERTY OF THE PROP | E CONTRACTOR DE LA CONT |
| TIT AND STATE  |  |  |
| 1 Hon No   |  |  |
| C.O.D. TO BE COLLECTED DATE DECLARED VALL BY CARRIER FOR CONSIGNOR   | <b>医维护型</b> 沙型   | 417458   |
| 4 24   | 44634  |  |
| SHIPPED BY   | ADY A  | 1 25   |
| RAND MCNALLY   |  | 105  |
| ADDRESS 2981 SIDUO DR. NASHVILLE, TENN. 3720   | )4 ASSN OR DIST.   | CARRIER TO WHOM CHARGES ADVANCES   |
| NASHVILLE, TENN  |  |  |
| CITY AND STATE   | TOTAL  | THIS SHIPMENT WILL MOVE COLLECT PHUNLESS THE BOX TO RIGHT IS CHECKED AND CONSIGNOR'S   |
|  |  | SIGNATURE APPEARS IN LOWER LEFT HAND CORNER.   |
| It is mutually agreed that the goods herein described are accepted in ag<br>for transportation as specified herein, subject to governing classification  | RECEIVED ABOVE I   | DESCRIBED CARGO IN DROPE EXCEPTIONS NOTED.   |
| hereof which are filed in accordance with law. Said classifications are<br>able for inspection by the parties hereto are hereby incorporated into a  | NEG A  | TIME   |
| SECTION ASSESSMENT OF THE PROPERTY OF THE PROP |  | 各部24.182 (Am 22)   |

GOVERNMENT'S EXHIBIT 13 - CENTRAL 1 JURS, INC. TRAVEL AGENCY PLATE



### GOVERNMENT'S EXHIBIT 15 - ALLEGHENY AIRLINES AIRWAY BILL - WINGS & WHEELS - GREENWALD

| ó.  |  | ORM AIRBILL NO                          |   |
|---|--|---|---|
| ROM:  | Subjec   | FLIGHT DATE DECLAR                      | on the Back of the Airbill  |
| 037 BNA 7138 3734   | " A  | 0                                       |   |
| ROUTING: Airline routing applies unless shipper inserts specific routing he | PREPAID COLLECT  | ALLEGHENY                               | DOMESTIC AIRBILL AIRLINES, INC. PRT-WASHINGTON, D. C.   |
| CONCICA   | CHARGE CODES   | CARRIER                                 | USE ONLY  |
| CONSIGN   | PY -PREPAID CASH   | RATE                                    | CHARGES   |
| " Wings & Wheels  | CG -COLLECT G.B.L. CP -COLLECT CASH- CX -COLLECT CREDIT  |   | A \$  |
| STREET ADDRESS  | MX -PART PREPAID. PARTIAL COLLECT-CREDIT MP -PART PREPAID. PARTL & COLLECT-CASH  |   | B PICK UP   |
| Newsark STATE NJ 211  | P CODE PG-PREPAID G B.L.   |   | C DELIVERY  |
| DEL. SPECIAL INSTRUCTIONS. INCLUDING CUSTOMER REFERENCE NUM                 | IBER   |   | D EXCESS VALUE  |
| SHIPPER'S ACCOUNT NUMBER SHIPPE   | R _ PCS. PKGS LENGTH WID   | TH DEPTH CUBIC INCH                     | ADVANCES .  |
| Wings & Wheels  | DINENSIONAL WGTL8S.  |   | OTHER .   |
| STREET ADDRESS  | C.O.D. SHIPMENT If amount entered here by Shipper  |   | G SHIPPER'S C.O.D.  |
| Nashville Tenn  | P CODE   |   | H   |
| PICK IN THE ORIG. ADV CHGS DESCRIPTION OF ORIGIN ADVANCE CHGS.              | DEST. ADV. CHARGES DESCRIPTION   | OF DESTINATION ADV. CHGS.               | TAX .   |
| OTHER CHARGES DESCRIPTION OF OTHER CHARGES                                  | G.B.L. NUMBER  |   | T \$ .  |
| NO. PCS. WEIGHT DESCRIPTION OF PIECES AND CONTENTS                          | S PACKING, MARKS, NUMBER   | CARRIER COMM'TY CARRIE<br>GROUP NO. GRO | R COMM'TY CARRIER COMM'<br>UP NO. GROUP NO.   |
| 114-203 Plan  |  | / /                                     | /   |
| -   |  | / /                                     | /   |
| -   |  | / /                                     | /   |
| - BNA358410-13  | And the second s | / /                                     | SHIPPER'S C.O.D.   COD.   |
| 8/A 28.0) B PICK UP C   | D E ADVANCES   | OTHER G                                 | SHIPPER'S C.O.D.  |
| 1 1.40 T 29.91 1380   |  | A-)-T                                   | 2991  |
| BRECUTED AT BY:   | Z) DATE 27 TIME  |   |   |
| 1. 2V11 2 1/10 115  | 1 1 1 1  | CARRIER   ORIGIN                        | CONTRACTOR OF THE PROPERTY OF |

GOVERNMENT'S EXHIBIT 16 - ALLEGHENY AIRLINES AIRWAY BILL DELIVERY RECEIPT - WINGS & WHEELS -BAYONNE

LOW ORM AUTHOLIC HOLLINGS WILL

MER USE ONLY CONSIGNEE - CHARGES SHIPPER'S COD C.O.D. SHIPMEN C.O.D. FEE TOTAL CHARGES 6/ DESCRIPTION OF PIECES-AND CONTENTS PACKING, MARKS. NUMBER 07/8 14 7514 0365 PERSONS SPEAKING

PHONE - LISTING

J.L.S. E. F50

301.6-2.61

Shoet # 1

PERSONS, FLACES MENTIONED, CUE WORDS.

Mister Luckys

Yoah babe

Laury n L. Fune = J.

Is Vinnie there

but him on, hello Yeah beby

1 am

m. o

Vinnie - V

Coch

What about you, did you make up your mind Listen I want to ask you a question L

Wast

No you know a guy Mike that comes down your place.?

tean

Cou is that who you deal with

feah

The same guy

year

That's the same guy I'm getting

through this other guy I know, Wally, a Ch yeah, how do you manage thet?

friend of mine

Wally?

He deals with this guy Ab huh

Teah, well that's er, you know, Im doing it He gave me a price 660

thats the right price

Ah Yeah

I told you about 75 or 80 dollars off

but the guy is fucking me around why, what do you mean fucking you eround? I got him here right now.

icah

ack him what is he doing there he is supposed to be at Wallys with my tickets.

Hello hold on

esh

|            |                                       |  | GOVE |  | EXHIBIT 19 - | TRANSCRIPT   | OF LARRY   |
|------------|---------------------------------------|--|------|--|--------------|--|--|
|            | PERSONS, PLACES MENTIONED, CUE WORDS. | J. Yeah  L. Ah ( Larry epeaking to semeone else)  J. Mriyncor. ( Specifing to semeone else)  J. Mriyncor. ( Specifing to semeone else)  J. C. T. Someone else) do you have some tickets to  Colorado, Insudible, whats this all about, In- |      | J. With him?  L. Yesh, just as well, through indirect things, that this happen to come but the way it is now but I got a problem that owes me money, you know what I mesa, so the reason that this guy like is holding back because this guy owes us |              | The state of the s | urers xxuxx manover  Thats where he had it  I. That's where he put that check in then that check cleared, it was paid.  V. Ok L. Ok V. Alright |
| Sheet # 2  | PERSONS SFEAKING                      | Larry = L. fune = J. Vinnie = V.   |      |  |              |  |  |
| V          | PHONE# - LISTING                      | 497-9408   |      |  |              |  |  |
| l marine c | AND DATES                             | 75 72  |      |  |              |  |  |

| PLACE and ship http                            | use he called me last night en me 400.  I'm not giving you 400, I don's ople you're dealing with.  I'm not giving you 400, I don's ople you're dealing with.  I'm not giving you 400, I don's ople you're guy filke now says the maney for me, pick up my would bring them to me.  Ilright.  In knew it out.  I he story was, that I'm wait the story was, that I'm wait in waiting at 8 o' cleek he supposed the can't find this guy. | So now he says to me, As soon as he cone's with the tickets, I'll call you, and I'll bring cm right to you. ( inaudible) the fuck- ing money I'm got "Adjida"—Italian for hearthourn), I'm getting sick inaudible) Alright, sold on a second now. ( harry taking to someone in the background-insudible)—then continue taking folywes Alright have, you goortinue on page 4. |
|--|--|--|
|  | - A A A A A A A A A A A A A A A A A A A  | J. So nith briting burn L. Alris to E Koort  |
| PERSONS SFEAKING  L. Larry  J. June  V. Vinnie |  |  |
| PHONE# - LISTING                               |  |  |

8/7/73

Sheet, 4 EEL AND UNIES PHONE - LISTING

PERSONS SFEAKING Los Lury J.= June

8016-264 24/2/3

PERSONS, PLACES MENTIONED, CUE VORDS.

J. By tomerrow, definite?

L. Yeah, of course well they're, they're all a all the guy, now this guy ain't coming un you're tickets by tomstrow. ---Ok7

with no money, understand?

The other words he wents the money laid outs don't have to worry about you, he's got to poon to up with the money, understand, like Ath I have all the money for my tickets.
I-have-ell-the-meney )
I know but he ain't coming up with it, wa

Ly No, only from this guy, because this guy is before he brings the tickets.

derk around, he ewe's us money so we get to collect emsh from him, understand?. Anghody the money, you know, but he's a jork eround else, we would say heres the tickets give u \$550.00, he's supposed to give me \$750.00

I says his name's Larry, he eags Yoah I dont know the guy, he says like that ah this guy lilke, he says you know maybe he at the Crossroads, I said, the Crossroads, I said where the Crossroads, lie said on ilety opelitam Ave. I said, oh yesh, I says I knor you know, so that's \$400.00 short, he is already, but what.
So now I know it was you because I just caled him, I said, what the fuck you doing to you got me here that Im sick as a dog, whire it also about those fucking tickets, I said where are you with them, you know, he enys

So I says oh, you know, so he says maybe hik: is up there you know He don't know me!

he says let me give him a call and find out

Continued on pego #

continued on page 6

|                 |                                       |   |   | GO         | VERN | ME | NT  | S E | XH | BIT  | 19                    | - : | [RA]  | NSC | RIP  | 0 1                          | FL                                | AR   |   | 1        |
|-----------------|---------------------------------------|---|---|------------|------|----|---|-----|----|--|-----------------------|-----|---|-----|------|------------------------------|-----------------------------------|--|---|----------|
| <               | PERSONS, FLACES MENTIONED, CUE WORDS. | June continued J. He's supposed to call me back and let me back if he got in touch with Mike, and what the st | was, and Im sitting here like a lucking schmuck, eating my beart out.  L. Right, alright, tormorrow night you'll have your tickets, have your money ready, and they'll e in your hands. | J. alright |      |    | J. Alright I<br>I. I cout cut his price you know what I mean? |     |    | L. When, you'll have them tomnerrow night, you | J. Yeah Friday night. |     | L. (Speaks to someone in the background) then |     | 16ht | or what ever it is. Toll him | Toah Inaudible, what the fucks go | Yeah well it does get a little leery, but really doesn't matter. We usually do it li | about the day before you know we, we make the | J. Yeah. |
| Sheet # 5       | PERSONS SFEAKING                      | Larry . L. June . J.  |   |            |      |    |   |     |    |  |                       |     |   |     |      |                              |                                   |  |   |          |
| V               | PHONE# - LISTING                      | 497-9408  |   | •          |      |    |   | •   |    |  |                       |     |   |     | :    |                              |                                   |  |   |          |
| CALLEY 2 BITEYD | I, AND DATES                          | 1 # 52  |   |            |      |    |   |     |    | •  |                       |     |   |     |      |                              |                                   |  |   |          |

|   | ING PE                          | Lar      | - |
|---|---------------------------------|----------|---|
|   | PHONE - LIST                    | 497-9408 |   |
| - | THE HEND SATES PHONE! - LISTING | 1773     |   |

REONS SPEAKING

Sheet # 6

ry = L.

0 = J.

PERSONS, PLACES MENTIONED, CUE WORDS.

Now let me ask you something though. Theres a reason for it.

rey What?

If I get nailed with them, right

Yeah

What am I out the bre-d?

Nah, I aint going to do that, In gonna uce the Ah well it's all according how it happens, you you should get nailed, there's only one way you could possibly get nailed with them, babe, know what I mean. There should be no reason thats if you try for a refund

lets say for arguements sake one of the per, people on the trip dont want to go. Well

eah

ou lose the ticket, if you try for a refund then you gotta get nailed. Yeah right

Understand, thats about the only way I heard

things. But just flying with them, you got nothing to of anybody ever having a problem with those sweat

No problem, I just came back myself, I took my whole family, and I wouldn't never do that if I did'nt think it was sure, Right?

So you take it from there, you know what I mea

Neah, well I'll take your word for it Right I sent Stovie, his family, everybody, an nobody had any problems.

But the problem would be if you tried to refund them, cry to get your money back. Right

I mean the airlines is gonna accept them (inau Then you're gonna wind up with a problem No problem

They told me, I told you, they told me, go to any travel agent.

continued on page

|  | GOVERNMEN | T'S EXHIB   | IT 19 - I  | RANSCRIP  | T OF LARRY                            | E-22   |
|--|-----------|---|--|---|---------------------------------------|--|
| PERSONS, FLACES MENTIONED, CUE WORDS.  L. You could do, those tickets, you could do what ever you want with them, you could change it to different airlines, do whatever you want with them. |           | (inaudible) (inaudible) (some get, ticket, get en with the people he gets it from went to get | L. Now I collect it from the people, that I, I give em to, then it's my problem you know. J. Yeah L. But in the meantime, he's got to have his | J. Right.  L. Alright so temmerrow afternoon, you'll have them.  J. Alright you gonne bring them to me in the after noon temmerrow? | In getting<br>now what I<br>he's here | band Vinny the cash and you give me the tick- ets  L. Ok  continued on page ". 3 |
| PERSONS SPEAKING  Larry = L.  June = J.  |           |   |  |   |                                       |  |
| PHONE# - LISTING   |           |   |  |   |                                       |  |
| T# 2 SAPID<br>AND D. 1155<br>F 52  |           |   |  |   |                                       |  |

|                                       |   | GOVERNMENT'S<br>ALFANO   | EXHIBIT, 19 - | TRANSCRIPT OF L | ARRY |
|---------------------------------------|---|--|---------------|-----------------|------|
| PERSONS, FLACES MENTIONED, CUE WORDS. | J. Now I'll just tell my boyfriend that the guy called me up L. Right J. And telked to me and explained to me why I'm having a run around, is causa Vally owes emmoney, you know I'll explain to him. | J. But I dont want you connected in any way L. Ok. J. Alright hon J. Alright so I'll see you tommorrow afternoon L. Ok. J. Ok. J |               |                 |      |
| Sheet # 8. PERSONS SPEAKING           | Larry = L. June = J.  |  |               |                 |      |
| PHONE - LISTING                       | 497-9408  |  |               |                 |      |
| do                                    |   |  |               |                 |      |

### GOVERNMENT'S EXHIBIT 20 - SHIPPING ORDER-WINGS & WHEELS-AIRWAY BILL - GREENWALD TRAVEL

| No. 31                               | 2/10                                   | AIRWAY BILL - NON NEGOTIABLE                                  |  |                            | 6                               | 7   |
|--------------------------------------|--|---|--|----------------------------|---------------------------------|-----|
| LC DEST                              |  | FOR TERMS AND CONDITIONS SEE REVERSE SIDE                     | Air Fxnre  | s Internations             | of Corpore                      | 27  |
| C 13                                 | 20                                     | UNLESS OTHERWISE INDICATED CHARGES ARE ASSUMED TO BE COLLECT. | EXECUTIVE OFFICES: 1   | 51 HARVARD AVE.,           | fings & Wheel<br>STAMFORD, CONF |     |
| ARLINE AIRSH L                       | ************************************** | FLIGHT Cabe Respond Called Relay                              |  | my mas )                   | 3                               | 7   |
| SHIPPER RA                           | ER willi complete al                   | items between bold lifes, licheding SHIPPER                   | CONSIGNEE  | in the second              | correction.                     |     |
| STREET ADDRESS                       | a patient for so open of               | 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1                         | STREET ADORESS   | 1220                       | 1101                            | 7   |
| gal Sideo                            | DR + 20 c                              | 0 0   | 15151 6103   | 6/040                      | 61913                           | Z)P |
| <b>经</b> 公司 在2000年                   | -                                      | 12 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1                        | - income as an appropriate of  | Jose to spore wi           |                                 |     |
| MASHVILLE                            | TH CO                                  | PLIGIBLE ONLY WHEN CHARGES ARE TO BE PA                       |  | IPPER OR CONSIGNEE         | Seat State                      | 110 |
| TO:                                  | 1 Dear                                 | of all comments are been been                                 | tropico o antal no sur pe  | Translation of the         |                                 |     |
| SIGNED FOR SHIPP                     | ER BY                                  | (9) X (1)   | CONTRACTOR AND ADDRESS OF THE PARTY AND ADDRES | te rest, rade 18           | 1000                            |     |
| lie, of packages & method of packing | (C).                                   | Experion top MANNE  | POUNDS LLED  | SHIPPERS                   | CHARGE                          |     |
| 64                                   | 6 4380                                 | 100 18 10 10 10 10 10 10 10 10 10 10 10 10 10                 | // / 1000  | C. O. D.                   | 1 2 2 2 2 2 2                   |     |
| 1 4                                  | 2/2 /                                  | 9/10  | 100  | C. O. D. FEE               | 1-1-1-1-1                       |     |
| 2                                    | 20                                     |   | 83   | WEIGHT/19                  | 45 CO                           | 6   |
| (9)                                  | 100                                    | 4/12  |  | PICK-UP<br>CHARGES         | 2.00                            |     |
| 700                                  | allo                                   | 7   | • 14 15  | DELIVERY                   | 102-                            |     |
| K                                    | 3,43                                   | 2/62  | and the contract of the  | CARFYER SENIORE            | 13                              | 0   |
| SPECIAL INSTRU                       | CHONS:                                 |   | IDECLARED  | CARRE GARGE                | 5.30                            |     |
|                                      |  | The second of the second second second second second          |  |                            | +                               |     |
| CUSTOMER'S REF. NO.                  | RECEIVED S                             | and the property of the second of the second of the second    | VALUE FOR  | ASSEMBLY/                  | INA A                           |     |
|                                      | RECEIVED 8                             | and a color of contains a few and to went                     | CARRIAGE   | VALUE                      | 00 63                           | -   |
| CUSTOMER'S REF. HO.                  | RECEIVED S                             | SIGNATURE   | RECEIVED BY AR EXPRESS INTERNATIONAL CORP. WHICH AND WHIELS A  | VALUE                      |                                 |     |
| DIMENSIONAL<br>WEIGHT                | x                                      | particle estimate a considerable of which to view to          | CARPILAGE PROCESIVED BY ARE EXPRESS MITERIATIONAL CORP. WINGS AND WHEELS SIMPLE'S DOOR 9   | VALUE                      | 44.71                           | 0   |
| DIMENSIONAL<br>WEIGHT                | XCOMPANY                               | particle estimate a considerable of which to view to          | CARRIAGE PROCEDIFIED BY AR EXPRESS INTERNATIONAL CORP. WINES AND WIRELS ARTIGET CITY TRANSPAR  | VALUE                      |                                 | 0   |
| DIMENSIONAL WEIGHT                   | X                                      | SIGNATURE   | CARRIAGE  RECEIVED BY AR EXPESS MITERIATIONAL CORP. WINES AND WHEELS  ARTOR:  GITY TERMINAL  NO. OF SIM PMIENTS THIS STOP  | VALUE CHARGIES  TO CHARGES | 44.70                           | D.  |

### GOVERNMENT'S EXHIBIT 21 - ALLEGHENY AIRLINES AIRWAY BILL - WINGS & WHEELS - GREENWALD

#### UNIFORM AIRBILL NON-NEGOTIABLE

Subject to Conditions of Contract on the Back of the Airbil

| 7 BNA 713                 | 0 3 1 3 4 VA                        | ALUE TO NEAR   | HIGHER VAL            | UE IS DECLARED.  | 3 ON REVERSE SHOW DECLARED   | 0                      | ED VALUE                                   | CUBIC INCHE |
|---------------------------|-------------------------------------|----------------|-----------------------|--|--|------------------------|--|-------------|
| TO VIA TO VIA             | TO AIV OF                           | VIA 2          | PREPAID               | COLLECT  |  | HENY A                 | DOMESTIC AIRBII<br>VIRLINES<br>WASHINGTON, | , INC.      |
| DISIGNEE'S ACCOUNT NUMBER | 27.7                                | 101            | That been             | t parent for all the<br>as Const                       | t va t tan est sa  | CARRIER                | USE ONLY                                   |             |
| 1 7                       | CONS                                | SIGNEE.        | Protect but           | tvisa dal <mark>bejdi. s</mark> el<br>Massa in la como | R  | ATE                    | CHAR                                       | IGES        |
| Wings                     | 4 Wheel                             | 5              | na pa ani<br>Pina ana |  | orent section for the terms of  | This is                | S WEIGHT                                   | 280         |
| RELT ADDRESS 100 6 0      | or in the cover of the control less | Tibe to ber .  |                       |  | Value s agreed and<br>an on waken consign  | 7 50                   | PICK                                       |             |
| " Newar                   | K"NJ                                | ZIP CODE       |                       | טחי או אחץ איין מינו<br>מיני איין איין איין מיניין     | on a enter the arms.   | saire<br>saire         | DELI                                       |             |
| SPECIAL INSTRUCTIONS.     | INCLUDING CUSTOMER REFEREN          |                |                       | onte Corra do el<br>Del egua krite                     | at you show within the first section of the section | TO VUNG US<br>TO SUCE  | EXCESS                                     | VALUE       |
| ALPPER S ACCOUNT NUMBER   | SHI                                 | PPER .         | PCS PKGS              | LENGTH   | MIDTH DEPTH  | CUBIC INCH             | ADVA                                       | NCES .      |
| Wings                     | & Wheel                             | S              |                       | AL WGTLBS.   | and half the Villa   | ya beset<br>in tropics | ОТ   | HER .       |
| REET ADDRESS              |                                     | 11.            |                       | IIPMENT<br>entered here by Shippe                      | ar   |                        | SHIPPER                                    | 'S C.O.D.   |
| Nashvil                   | le Teni                             | ZIP CODE       |                       | 7  |  | to the                 | C.O.D                                      | ). FEE .    |
| NE ORIG. ADV. CHGS. DE    | SCRIPTION OF ORIGIN ADVANCE CHGS    | , 1            | DEST. ADV. CHA        |  | ION OF DESTINATION A   | IDV. CHGS.             | Ť  | 1.4         |
| OTHER CHARGES DESCRIPTION | N OF OTHER CHARGES                  |                |                       | G.B L NUMBER   |  |                        | \$   | 27.4        |
| 4 -203                    | PM                                  | NTENTS PACKING | G. MARKS. NUME        | ER   |  | ħ                      |  |             |
| - 6                       | 3NA358410-13                        | 3              |                       |  |  | a garage               |  |             |
| /                         |                                     | THIS IS N      | IOT AN II             | NVOICE   |  |                        |  |             |
| SNA Mall                  |                                     | 4.2            | 4-23                  | 2145   | CARRIER  | ORIGIN                 |  |             |
| ABG 55162 REV. 5/71 AC-17 |                                     | 1 SHIPPER      | R'S RECEIP            | т  | 037  |                        | 7138                                       | 373         |

### GOVERNMENT'S EXHIBIT 22 - O. S. AND D. LOSS REPORT - GREENWALD

| CC#45818 - 8-2-73   | Rights of           |
|---|---------------------|
| NewARIK. PolicE   | No. 01199           |
| WINGS & WHEELS, INC.  |                     |
|   | •                   |
| OVER SHORT DAMAGE (check one)                                 | REPORT              |
|   |                     |
| Station NewARK New Jersey Date June 5,                        | 1973                |
| Air Bill No BNA 358410 C 4/24 Carriers A/B No. 37 BNA 7/3     | 83734               |
| Number of Pieces 14 Weight 203 No. Pcs. OSorD 166 /           | wt. 33              |
| Commodity AIRLINE TICKETS Declared Value \$                   | NVD                 |
| Consignee GREEN WALD TRAVEL SERVICE 114 MARKET State          | et CLIFTON, N.J.    |
| Consignee O /ceco conte                                       |                     |
| Description of OS or D CARTON STOLEN FRM WWGS- Wheels         | NEWARK DOCK         |
| MORNING OF APRIL 26, 1973                                     |                     |
|   | AT Newark           |
| Where or How Did OS or D Occur? (If known) Wing + wheels Dock | 41 1000000          |
| Between the Hours of 0830-1300 April 26, 1973                 |                     |
| Action Taken NOTIEN ALL TRUCKER Who were in To Plu FRET THA   | t Day ALSO          |
| CALLED ALL TRAvels Agency that we had Del To Frem Some of     | sippen for possible |
| HAO been Del To wrong cons                                    |                     |
|   |                     |
| Original Claims Dept. G.O. Duplicate Station File             | lanf                |

5/1/14